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ABSTRACT

The Ward Grievance Procedure (WGP) is an Exemplary Project which was developed in California Youth Authority institutions in response to the need of forming administrative procedures for settling inmate grievances. Comprehensive information is provided to aid correctional planners and administrators in their efforts to improve or develop methods of resolving inmate problems. Topics covered include project development, WGP organization and operations, types of grievances, support systems, replication issues, results and costs and program evaluation. Further specific information, such as definitions of grievance principles, guidelines for Grievance Committee Hearings, a general training guide and grievance forms, is provided in the appendices. (YRJ)

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An Exemplary Project

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CONTROLLED CONFRONTATION

The Ward Grievance Procedure of the California Youth Authority

Office of Technology Transfer
National Institute of Law Enforcement
and Criminal Justice
Law Enforcement Assistance Administration
U.S. Department of Justice

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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CONTROLLED CONFRONTATION

The Ward Grievance Procedure of the California Youth Authority

An Exemplary Project

by
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Joan Mullen
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Photographs in both this Manual and the Brochure *"Controlled Confrontation: The Ward Grievance Procedure of the California Youth Authority"* are by Tia Schneider Denenberg.

August 1976

Office of Technology Transfer
National Institute of Law Enforcement
and Criminal Justice
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FOREWORD

Does an inmate have the right to make reasonable suggestions about the way his life is regulated during incarceration?

During the past decade, corrections departments across the country have faced unprecedented pressure to confront this question, answer it constructively, and find a practical means of settling inmate grievances.

The question has surfaced in bitter and costly conflict within institution after institution. And it has been echoed loudly outside the corrections world by powerful political and social groups.

The roots of conflict over the legitimacy of grievances lie deep in our history. The American experience in both the governmental and industrial spheres has produced a tradition of formal conflict resolution through open collective negotiations and independent arbitration.

Starting just a few years ago, concerned corrections professionals, together with inmates and outside arbitrators, began adapting this tradition to the unique environment of prison society.

The Ward Grievance Procedure, developed in California Youth Authority institutions, is the major pioneer program to emerge and has been named an Exemplary Project by the National Institute.

For those who wish to test or consider testing the WGP program, this manual gives the requisite practical information. A brief brochure is also available through the National Criminal Justice Reference Service, P.O. Box 24036, S.W. Post Office, Washington, D.C. 20034.

Gerald M. Caplan
Director
National Institute of Law
Enforcement and Criminal
Justice

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CHAPTER 1
INTRODUCTION

All that was at issue was a beard.

Daniel P., a 21-year-old ward in a boys' treatment center in Stockton, California, believed that the short haircut and no beard standards set for wards in his institution should not apply to youths accepted for parole. In support of his contention, he filed a grievance asking that these standards be eliminated, arguing that once an individual has achieved pre-parole status he should be free to determine how he looks. Daniel's grievance was reviewed several days later by a five-man committee in his living unit. This committee was composed of two wards, two staff members, and an additional non-voting staff member who acted as a chairman and mediator. Daniel presented his grievance to the committee and summarized by stating, *"One need only stand in a busy shopping center to realize the wide variety of socially acceptable hair styles and beards, for people of all walks of life. Isn't it time that the Youth Authority stopped placing moral value judgements on appearance?"**

The committee agreed with Daniel and recommended that the Director of the California Youth Authority review his proposed request. The Director responded to the grievant by memorandum and approved the dropping of hair length standards but refused to allow wards to grow beards. The Director contended that:

> *"With approximately 30 days in which to grow a beard, the average ward would be released on parole in a very 'scruffy' condition. The importance of first impressions hardly justifies relaxing what are already very minimal standards of appearance."***

---

* Opinion and Advisory Award of Independent Review Panel in the Matter of Advisory Arbitration between the State of California, CYA, and Daniel P., grievant.

** Ibid.

The Director's decision was unacceptable to Daniel, and he decided to appeal it to an outside review panel. Chaired by a volunteer professional arbitrator, the review panel was composed of two other members -- one member appointed by Daniel and one by the Director -- to represent the positions of the two parties. The decision of this review panel would be advisory only, and the Director would be free to reject the panel's recommendation. However, the Director would present reasons for rejecting any decisions reached by the panel.

Evidence presented by the opposing parties revolved around three issues:

- appearance as a criterion of parole eligibility;
- the employability of wards with facial hair; and
- the identification of wards with facial hair in the event of an attempted escape.

Witnesses were presented by both sides and hearsay evidence was admissible. The review panel supported Daniel's proposal concluding that the Youth Authority had produced no compelling reasons to justify the prohibition of wards from growing beards. Each of the three issues debated by the Department and grievant was considered in a written opinion prepared by the Review Panel:

On Pre-Parole Appearance Before the Youth Authority Board:

"There is no solid evidence in the record to support the Department's position that [Youth Authority] Board members subscribe to the existing policy [and might react adversely to wards who appeared before it with facial hair]."

On Effect of Beards on Employability:

"Customs and attitudes relative to head and facial hair styles have changed rapidly in recent years and one sees long hair and beards in places of employment now that would have been unheard of a few years ago . . . Once a ward has been released on parole, he is in a better position than before to observe what the prevailing styles and prejudices are and to adjust his behavior accordingly."

On the Problem of Identification:

"To deny the right to wear beards to those wards who have really merited referral to parole . . . because one or two in the group might attempt to escape appears to be inconsistent with the spirit, the procedures and the results of the school's behavioral treatment program."

The Director accepted the panel's decision and announced that within 30 days the new policy would take effect. Within a matter of weeks, Daniel had effected a change in an institutional policy. More important, both sides had been able to openly discuss and present the reasons for their particular positions before panels composed of their peers.

In this and hundreds of similar cases, the Ward Grievance Procedure (WGP) of the California Youth Authority (CYA) has provided easily accessible, safe channels for encounters over problems ranging from personal hygiene to constitutional rights. Many of these grievances are commonplace issues -- issues which become serious only when inmates feel they are not being seriously considered.

Recognizing the importance of developing administrative procedures for settling inmate grievances, LEAA's National Institute of Law Enforcement and Criminal Justice has designated the CYA's Ward Grievance Procedure an Exemplary Project. This manual is intended to aid correctional planners and administrators in other states in their efforts to improve or develop methods of resolving inmate problems. In addition to this document, which focuses on the procedures adopted by California's juvenile institutions, a related LEAA publication should be consulted for information on other types of grievance mechanisms now operating in several state and federal institutions:

- *Grievance Mechanisms in Correctional Institutions*, A Prescriptive Package, Center for Correctional Justice, September, 1975.*

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* Single copies available free of charge from LEAA's National Criminal Justice Reference Service, P.O. Box 24036, S.W. Post Office, Washington, D.C. 20024. Multiple copies available from U.S. Government Printing Office, Stock No. 027-000-003516. Price $1.70, pre-paid.

Grievance committee hearing.

Photo by Tia Schneider Danenberg

The remainder of this chapter highlights the operations and results of the Ward Grievance Procedure in California. Subsequent chapters discuss all facets of WGP in greater detail, including the requirements for successful replication. One important replication issue should be emphasized here: the fact that the Youth Authority has successfully operated WGP doesn't mean it's a juvenile program. WGP can work in adult corrections because the problems WGP confronts exist in all correctional institutions.

1.1 How WGP Works*

The Ward Grievance Procedure works on three principles:

- The role of the confined is not just to file grievances, but to help settle them.
- Wards and the line staff must work together to resolve disputes. Otherwise, solutions will work on paper but not in practice.
- When unable to agree, both sides must be able to turn to an independent party for an unbiased view.

In California, most institutional guidelines specify that each living unit will elect Grievance Clerks from the ward population. The clerks have proved to be influential grass roots officials. From the department's point of view, they play a key role, processing complaints and managing paperwork. From the grievant's point of view, they link inmates to the procedure, providing counsel and leadership. WGP allows grievants to have a representative of their choice. Often the chosen advocate is a Grievance Clerk.

The grievant's first formal recourse is a hearing before a Ward-Staff Committee composed of his peers and an equal number of line staff. There are four voting members: two wards and two staff members. The fifth member, drawn from middle management, serves as non-voting chairperson and mediator. Naturally, the very existence of this "court" creates a climate for settling out of court.

* The information presented in this section draws heavily from a brochure previously published, *Controlled Confrontation*, the Ward Grievance Procedure of the California Youth Authority, available through the National Criminal Justice Reference Service.

As a result, many grievances are resolved informally, without the hearing.

Either party to the grievance has the right to appeal Ward-Staff Committee decisions to the Superintendent or, in some cases, the Director. The appeal serves a number of important purposes:

1. The prospect of administrative review puts added pressure on wards and line staff to work out meaningful solutions.
2. Top management is brought into the grievance procedure. They get a chance to respond and a reason to stay interested in WGP.
3. Traditional stereotypes are shaken. Grievants find themselves appealing a decision of their peers to the Superintendent.

The third and final step brings an outside professional arbitrator into the picture. Appointed by the American Arbitration Association, the arbitrator chairs a three-person panel in which one of the other two members speaks for the grievant and one for the administration. The department, of course, retains the final say. But although the panel can only advise, the prestige of the arbitrator gives its actions imposing weight.

The CYA's carefully drawn guidelines for WGP specify that there will be no reprisals whatsoever for filing a grievance. What protects the ward--and wins his support--is the formality of the process. WGP permits no arbitrary acts. All decisions, regardless of level, must be put in writing with reasons for any denials. If the decision prescribes taking a specific action, the written response must set a deadline for acting.

1.2 Results

Since the inception of the Ward Grievance Procedure in 1973, two intensive evaluations of the program have been conducted, one by the Research Division of the California Youth Authority and the other by the Center for Correctional Justice in Washington, D.C. The results, discussed in detail in Chapter 8, demonstrate that

the CYA's program of controlled confrontation has worked. The performance of the Ward Grievance Program has exceeded expectations.

Wards have found they can change their environment through constructive, legal measures rather than violence. Statistics through February, 1976, show that slightly more than 40 percent of grievance dispositions have upheld the grievant. An additional 20 percent of the dispositions partially upheld the grievant through some sort of compromise.

In the early days of WGP, both critics and supporters were pessimistic about the capability of wards and line staff to do anything but oppose each other. Yet there was no more important test of the program than its effectiveness in promoting constructive dialogue at the grass roots level. Wards and staff talk to each other and work grievances out together. They work things out so well that of the 7,124 grievances filed from September, 1973, to February, 1976, over 2124 were settled at the first formal level of review -- the ward-staff committee meeting in the grievant's living unit. By far, the largest number of complaints were resolved at the first level.

The next largest number, 1289, were settled at the second level, the Superintendent. This is understandable given the multitude of grievances filed on issues of policy.

Only 48 grievances, less than 1 percent of the total, needed outside arbitration to produce a settlement. This figure is encouraging for two reasons:

1. The percentage is so small it shows that the two in-house levels of review have performed productively.
2. The percentage isn't so small as to render the outside arbitration provision insignificant. Wards know that arbitration is genuinely available if needed. This makes it easier to trust WGP at all levels.

Perhaps that's why over 30 percent of the grievances were resolved by ward and staff informally, prior to a hearing by the grass roots committee.

The impact of WGP has gone beyond resolving formal individual grievances into day-to-day personal relationships. WGP has created new roles of responsibility for wards, and fostered non-violent feedback. Staff members say WGP builds staff competence, improves communication, and makes it easier to act favorably when a ward suggests something. Meanwhile, wards who used to see staff as simply evil and repressive now tend to use milder descriptions such as "overburdened and inefficient."

The key contributing factors to the success of WGP stand the test of plain common sense as well as advanced correctional practice. The CYA wards trust their grievance procedure because it wasn't imposed on them. Instead, they helped create it, participating actively in the design phase.

A productive ward-staff grievance system depends on line staff's acknowledging that inmates can raise reasonable issues. And inmates must acknowledge that line staff members are capable of proposing reasonable solutions. The CYA brought the two sides together in the initial design phase, and continues to promote the concept that WGP is operated by both and for both.

CHAPTER 2
PROJECT DEVELOPMENT

Industrial arbitration would be worthless if corporate management had no commitment to the arbitration process. The same is true in a corrections environment. The CYA's Ward Grievance Procedure received active support and direction from CYA administrators in the design stages and throughout the process of training and implementation. Beginning with a discussion of the critical need to use administrative means of settling inmate grievances, this chapter reviews each of the actions taken by the Youth Authority to support the development of formal grievance procedures in all of California's youth institutions.

2.1 Background

To open lines of communication between inmates and staff, to keep correctional administrators in touch with developing problems, to avoid violent confrontation, the National Advisory Commission on Criminal Justice Standards and Goals has recommended that, "*each correctional agency immediately develop and implement a grievance procedure.*" According to the Commission, "*All correctional agencies have not only a responsibility but an institutional interest in maintaining procedures that are, and appear to be, designed to resolve their complaints fairly.*"*

The justification--indeed, the necessity--for developing formal inmate grievance mechanisms rests on three important issues of correctional policy and law.

- First, unresolved grievances can lead to tension, frustration, and ultimately, institutional disrup-

* Report on Corrections, p. 56.

tion and violence. An investigation of the Attica prison riot led the McKay Commission in New York to conclude that, "One cause of the rebellion was the lack of nonviolent ways for inmates to express their accumulated grievances."*

- Second, now more than ever, discretionary correctional decisions have been subject to judicial scrutiny and constitutional challenge. Recently, the Supreme Court held that prison disciplinary proceedings are subject to certain minimal due process requirements.**

- Finally, the dramatic rise in the number of court petitions filed by prisoners over the past decade and in some instances the triviality of these cases has led both correctional administrators and judges to question the appropriateness of judicial redress for inmate grievances over institutional policies and procedures. As the capacity of the judicial system to resolve efficiently a broad range of prisoner complaints has become overburdened, the need to introduce equitable administrative grievance procedures has grown. Clearly, the inmate, the administrator and the judge "would seem to have much to gain from mechanisms that are faster, less costly and less painful than reform by judicial decree."***

Even before these issues received national attention, the California Youth Authority was considering the development of formal methods for dealing with ward (inmate) complaints. The Director of the California Youth Authority, Allen F. Breed, believed that equitably handling the legitimate concerns of wards was a crucial prerequisite for effective correctional treatment:

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* "Prison Grievance Procedures: A National Survey of Programs Underway," *Corrections Magazine*.

** Wolff v. McDonnell, 418 U.S. 539 (1974).

*** J. Michael Keating, Jr., et al., *Grievance Mechanisms in Correctional Institutions, A Prescriptive Package*, Center for Correctional Justice, September, 1975, p. 4.

> "No treatment program that exists . . . today in the field of corrections (is) successful, and basically, they are not successful because they are operated in an environment that's not fair," he said. "Kids who turn delinquent have a very keen sense of fairness, maybe because they've learned to recognize the lack of justice in how they've been handled before they got to us." Young offenders ask themselves, he said, "why they should act in a law-abiding manner when they are constantly treated in a way that doesn't seem fair."*

As this manual points out, one of the essential ingredients for the successful replication of a ward grievance procedure is the commitment and active leadership of correctional administrators. It is no surprise, therefore, that the success of the ward grievance procedure in California is--in no small way--directly linked to the involvement of the Director of the California Youth Authority.

One of Allen Breed's early professional affiliations was with the Center for Correctional Justice in Washington D.C. Acting as a member of the Center's Board of Directors, Breed had early exposure to the Center's involvement in advising state corrections systems about the provision of legal services to prisoners. Early in 1972 the Center was working with the Massachusetts Department of Correction to test a new procedure designed by the Center's staff to handle inmate complaints. The procedure was based on the arbitration and mediation techniques more commonly applied in the labor relations field.

Witnessing the Massachusetts experience, Breed was convinced that the new procedure could be used to build appropriate safeguards around the institutional decisions which affected an inmate's life in California. As a result, he appointed a task force in September of 1972, composed of top CYA administrators--institution superintendents, the Deputy Director of CYA, and the administrators of CYA's Planning Division and Research Division. The goal of the group was to devise a grievance procedure experiment in California. Breed knew from the Massachusetts experience that the process would have to be introduced slowly and that early

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* "Prison Grievance Procedures: A National Survey of Programs Underway," *Corrections Magazine*.

Allen F. Breed, Director of California Youth Authority

Photo by Tia Schneider Denenberg

emphasis needed to be placed on developing a set of basic principles on which the procedure would operate.

The Center for Correctional Justice was solicited to provide planning and design consultation to the task force and ultimately to assist the CYA in training staff and implementing the procedure.* The Center participated in the task force meetings and encouraged its members *not to copy* the procedures developed by Massachusetts, not to think in terms of how the procedure might mechanically work, but to consider only the development of guidelines which would provide the base on which the procedure would operate throughout the state.

The guiding principles which resulted from the early task force meetings defined a system which encouraged inmate participation in a formal process of open collective negotiation. The following eleven elements were considered essential to a successful grievance procedure:

1. Active participation by elected wards and by staff in the design, development and operation of the grievance procedure adopted in each program unit;
2. An available course of action to provide immediate redress to a ward with an emergency grievance or problem;
3. Levels of review, kept to a minimum but ideally corresponding to the major decision-making levels of the program unit's organization. Any party to a grievance, ward or staff, may appeal a decision;
4. A full hearing at some level which affords all parties to a grievance the opportunity to be present and to participate in the hearing;

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* The whole of the Center's involvement with the California Youth Authority was supported by two sources. Initially the CYA provided travel/per diem support for Center staff from its own budget; Center staff time was not reimbursed. Finally in June, 1973, the CYA received $22,000, and in June, 1974, $24,000 from the Rosenberg Foundation in California (a private granting foundation concerned with the provision of social services) which supported the Center's staff and related activities through June, 1975, when the grievance mechanism was fully operational statewide.

5. Representation of grievants in any informal conferences, hearings or reviews by a representative selected by the ward from other wards, staff or volunteers regularly participating in the program unit;

6. Reasonably brief time limits on all responses and any actions which must be taken to put a response into effect. Reasons for action taken must be documented in writing. Lack of a written response or failure to complete action within the required time periods will entitle the grievant to proceed to the next level of review;

7. The right of appeal or independent review by a party or parties outside the institution or Youth Authority;

8. Use of the grievance procedure itself to determine whether a specific complaint falls within the procedure;

9. Guarantees against reprisals for anyone using or participating in the grievance procedure;

10. Constant monitoring and evaluation of all procedures, their operation and their decisions; and

11. Referral of grievances that may result in punitive action against institutional employees directly to the Superintendent for investigation and prompt written responses to all concerned parties.

Appendix A presents a brief explanation of the rationale for each of these principles and the implications of each on institutional operations.

Once the task force had developed this set of guiding principles, Breed began to look for a Superintendent who would be willing to experiment with a grievance procedure. In March of 1973 the Superintendent at the Karl Holton School, Richard Kolze, offered to try the grievance procedure. Kolze's willingness to test the procedure was based on his desire to assist in introducing correctional change, and his belief that the procedure would be an effective means for ensuring that wards were--and realized they were--treated fairly during their confinement at Karl Holton. Superintendent Kolze appointed staff and arranged for an inmate election to appoint representatives to a planning committee. The planning committee had the task of taking the basic principles

and translating them into an operating grievance procedure. Again, the Center for Correctional Justice worked closely with the staff at Karl Holton to explore all the design alternatives available and to share the experiences they had gained in Massachusetts. During this process one principle proved especially important--staff and inmates had to participate in both the design and operation of the procedure. All those involved at this stage were convinced that the procedure would fail unless staff and inmates both had a vested interest in the procedure and felt that they had control over its operation.

By September of 1973 the Karl Holton School had developed a set of procedures and was ready to put the grievance mechanism into operation. The procedure included line staff and wards in a first-level committee which attempted to resolve complaints through mediation. First-level decisions could be appealed to institutional or Departmental administrators and ultimately to an outside review panel chaired by a volunteer professional arbitrator. The assistance of the American Arbitration Association was obtained to recruit volunteer arbitrators, to arrange for their participation in the final level of review, and to administer the independent review process according to the Association's rules and the WGP.

The Center for Correctional Justice, together with the Institute for Mediation and Conflict Resolution, a New York-based organization with broad experience in teaching mediation and other conflict resolution skills, conducted extensive training sessions to prepare wards and staff to assume their roles in the procedure. To assist in the design and training, mock hearings were videotaped and then replayed for analysis. In this way, participants received a taste of what it was like to grapple with problems like censorship, day-pass procedures, and ethnic conflicts--issues for which there were no easy answers. Training sessions were subsequently repeated for the other living units, with wards and staff from the initial units playing important roles in the conduct of the training. By March, 1974, all living units in the Karl Holton School had operative grievance procedures.

The immediate success of the procedure at Karl Holton confirmed the CYA Director's belief that the procedure could be adopted (and should be operating) in all of California's institutions. In order to test the idea that the procedure could successfully operate in more than one setting, the Director solicited the assistance of

another institution--the Youth Training School--which was an older, minority-dominated, inmate population. With the help of the Center as well as assistance from staff and inmates at the Karl Holton School, the Youth Training School successfully designed and implemented its own grievance mechanism in August, 1974.

To introduce the principles of conflict resolution to all Youth Authority institutions, a special training session was held for all Superintendents and Assistant Superintendents at the headquarters of the Institute for Mediation and Conflict Resolution in New York. The Institute had worked with the Center for Correctional Justice in applying arbitration and mediation concepts in the design of inmate grievance mechanisms, and both groups now collaborated on this initial training effort.

The training sessions were not geared to familiarize institutional managers with specific inmate grievance procedures. In fact, at this stage, the CYA's desire to establish procedures in all institutions had not been formally articulated. The goal of the sessions was simply to provide participants with an appreciation of the principles of conflict management. During the nine-day training program, the Superintendents and their Assistants became acquainted with the merits of mediation as a technique for resolving conflict, and the Center for Correctional Justice won a measure of the trust and rapport that would be necessary to establish successful working relationships when the concept of institutional grievance procedures was introduced.

In considering the best method of introducing grievance procedures statewide, the Youth Authority decided that developing procedures institution-by-institution would be too time-consuming. Moreover, the CYA Director was aware that a phased schedule might postpone and prolong any institutional resistance and opposition that might be encountered despite the favorable results of the initial training effort. Thus, in June of 1974, Breed arranged a meeting of all superintendents to announce that the grievance procedure would be adopted by each California institution. A two-day session was scheduled and, with the assistance of staff from the Center, the major concerns and fears of the Superintendents were addressed. Two major issues dominated the agenda:

1. The concern on the part of Superintendents that the procedure would make it possible for inmates

to attack staff, thereby increasing, rather than decreasing, inmate-staff conflicts and hostilities;

2. The question of whether the grievance mechanism would make the actions of staff (including the Superintendent) subject to an unwarranted level of review by inmates.

In addition, the California State Employees Association was concerned that the procedure violated staff rights and might raise legal questions. The Center staff and the CYA administrators were able to deal with the opposition to the procedure by pointing to the experiences gained in Massachusetts and the successes of the two experimental projects already in operation. In no case had the procedure subverted correctional policies or undermined the basic authority of the Superintendent and staff. Following this session, the CYA Director asked that each institution develop, within six months, a specific design for a Grievance Procedure and a specific plan for implementing the Procedure by mid-year 1975.

During this roughly six-month planning process, the Center, CYA administrators, staff and inmates from both the Karl Holton School and the Youth Training School, all assisted in helping institutions assemble the necessary staff, involve inmates, and develop Grievance Procedures which were consistent with the principles developed by CYA and the needs of their inmate populations. Each institution was required to submit their plans for review by the CYA administration. Plans which were not adequate were revised before the procedure was implemented. A series of phased training sessions was conducted by Center staff for most institutions and, by mid-1975 all of California's institutions had successfully adopted a grievance mechanism.

The success of the CYA in implementing the grievance mechanism in all of its institutions is clearly tied to the CYA Director's commitment and leadership. Not only was the Director willing to advocate the adoption of grievance procedures, he was willing to fight opposition and, if necessary, to transfer or remove Superintendents who refused to consider implementation of the procedure. Fortunately, there was never any need for serious direct confrontation. With careful planning and active leadership from the start, it was possible to build the kind of trust and confidence

necessary to overcome any natural resistance, and to concentrate attention on the merits of the grievance procedure.

Today the Ward Grievance Procedure is no longer an experiment. Procedures pioneered by the California Youth Authority have spread to adult institutions in New York, Colorado and South Carolina. And, in California, the Department of Corrections is developing its own model procedure that incorporates mediation and arbitration techniques.

CHAPTER 3
WGP ORGANIZATION AND OPERATIONS

WGP has two unique and formal features which promote success in situations where ombudsman programs and inmate councils have failed:

- Grass roots problem-solving by line staff and inmates;
- Inmate appeal to outside arbitration.

There could be no WGP without the active participation of wards and staff. Grievance Clerks are particularly important to the Procedure. These individuals are elected from the ward population to provide counsel and leadership and handle much of the time-consuming paperwork at the first levels of review. Because they helped create it and continue to participate actively, CYA wards are strong advocates for the procedure and readily accept WGP decisions -- win or lose.

There could also be no WGP without outside arbitrators. Opening individual grievances to independent review offers staff and inmates a valuable perspective on problems that are often difficult to resolve within the confines of the institution. CYA has had no problem securing the services of the best arbitrators on a volunteer basis, paying only administrative costs and individual travel expenses.

This chapter discusses the organization, staff positions and levels of review common to the procedures operating in CYA institutions. It is important to emphasize here that each institution has its own procedure -- one designed and operated by wards with the assistance of line staff. Although all institutions adhere to the general principles listed in Chapter 2, no two institutions have exactly the same grievance procedure. The descriptions in this chapter are not intended to suggest a model system, as each new grievance system must be adapted to address the concerns of the wards and staff the procedure will serve.

3.1 California Youth Authority

The California Youth Authority is under the jurisdiction of the Health and Welfare Agency in the state of California. The CYA administers correctional programs at three reception centers, eight institutions, five forestry camps, and one community residence. Its average annual institutional population of 4,500 ranging in age from 13 through 25, has been committed to the Youth Authority by both Juvenile and Superior Courts.* A high percentage of the population have been committed as a result of felony offenses.

Youths committed to the Youth Authority are sent to one of the three reception centers for a four-week period of intensive testing and orientation. The Youth Authority Board then reviews the diagnostic results and recommends institutional assignment for a specified time period. Assignments are generally based on the youth's maturity and the proximity of the institution to the youth's community. Once transferred to the institution, the ward is assigned to a living unit for the duration of his stay. Living units are comprised of 50 wards and a team of social workers, counselors and other staff members.

The organization chart on the following page displays the administrative structure of the CYA. The Youth Authority Board, whose members are appointed by the Governor, functions as the parole decision-making entity in the CYA. On a statewide level the Ward Grievance Procedure is administered from the office of the Deputy Director for Parole and Institutions Branch. Day-to-day support and monitoring is provided by the Ward Grievance Coordinator in the Office of Ward Rights Services. At the institutional level the Superintendent is responsible for the operation of the WGP. At each institution an administrative staff member acts as a WGP Coordinator. The WGP

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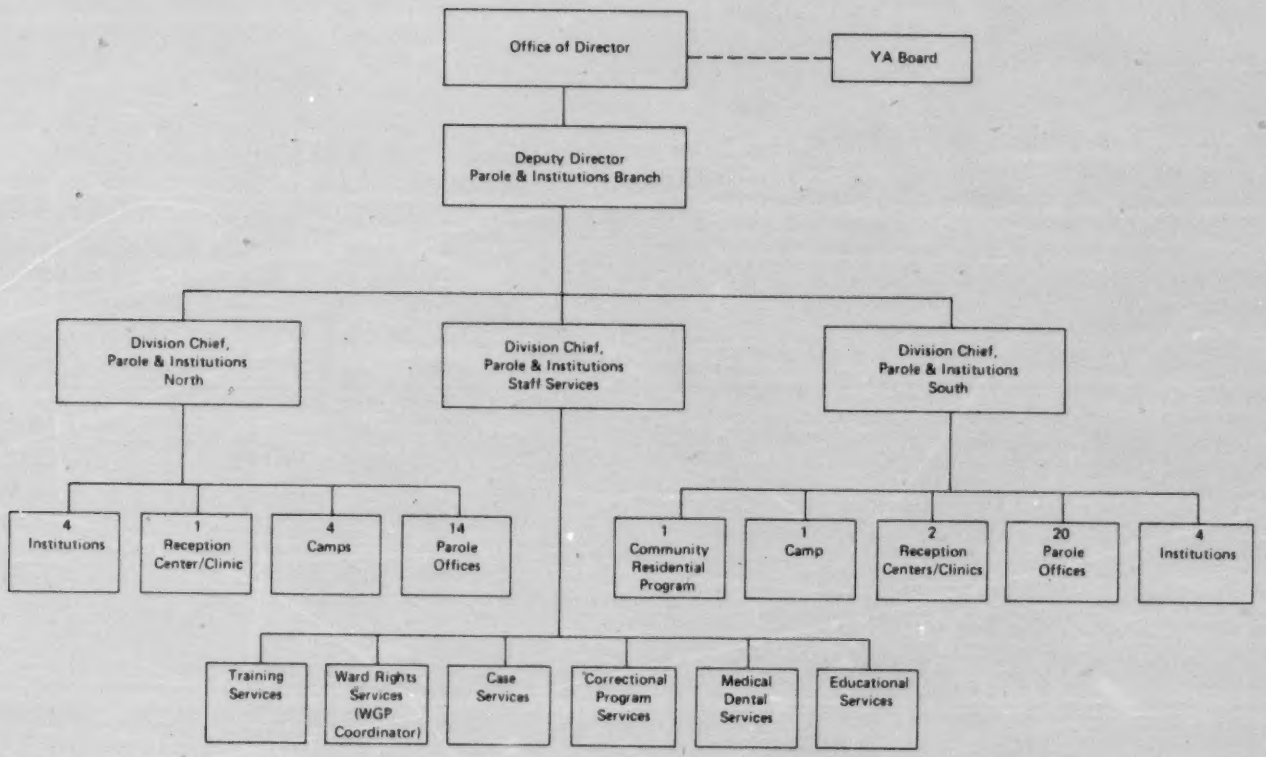
* The Youth Authority will retain control over individuals past 21 years of age in the following circumstances:

- youths adjudicated in Superior Court between the ages of 18 and 20, until 25 years;
- youths adjudicated in Superior Court under 18, until 21 years; and
- youths adjudicated in Municipal Court under 21, until 23 years.

CYA ORGANIZATION CHART



Coordinator reports directly to the Superintendent, monitors the procedure and is available to provide technical assistance and advice.

3.2 General Grievance Procedures

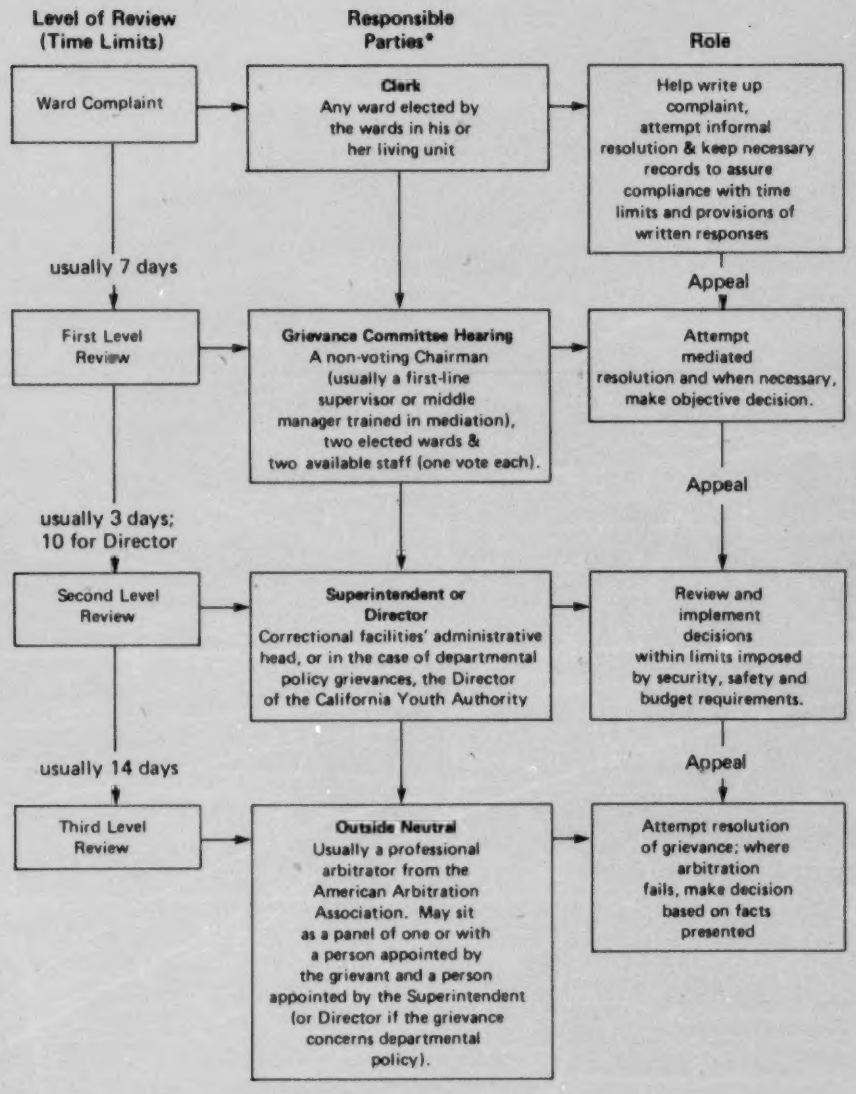
Before discussing the specific roles and responsibilities of WGP staff, a review of the mechanics of the procedure itself is important to define WGP's administrative requirements.

Based upon the original eleven principles, departmental regulations guide the procedure and operations of the Ward Grievance Procedure in each institution. Essentially, these guidelines specify procedures for the levels of grievance review, maximum time limits at each level, and methods of handling special or emergency grievances. Within this framework, modifications have been implemented at various institutions depending on the size and nature of the facility and the time period for which wards are committed. Modifications have been generally made in the designated amount of time for each review level before a grievance may be automatically appealed to the next level, the number of review levels and the types of staff involved in administering the grievance system.

The flow chart on the following page displays the levels of the grievance review process, the composition of the review panels at each level and the time limits for responses. Generally, three formal levels of review have been established to ensure the opportunity for appeal if the decisions reached are unsatisfactory or require action by higher administrative levels. The final level in all procedures is independent review by an outside arbitrator. However, an important goal of all grievance procedures is to resolve ward complaints at the earliest possible time and at the lowest possible level.

A full hearing is generally conducted at the first level of review to provide all parties an opportunity to participate and present their position.

BASIC STRUCTURE
CYA WARD GRIEVANCE PROCEDURE


Level of Review (Time Limits)
Responsible Parties*
Role
Ward Complaint
Clerk
Any ward elected by the wards in his or her living unit
Help write up complaint, attempt informal resolution & keep necessary records to assure compliance with time limits and provisions of written responses
usually 7 days
Appeal
First Level Review
Grievance Committee Hearing
A non-voting Chairman (usually a first-line supervisor or middle manager trained in mediation), two elected wards & two available staff (one vote each).
Attempt mediated resolution and when necessary, make objective decision.
Appeal
usually 3 days; 10 for Director
Second Level Review
Superintendent or Director
Correctional facilities' administrative head, or in the case of departmental policy grievances, the Director of the California Youth Authority
Review and implement decisions within limits imposed by security, safety and budget requirements.
Appeal
usually 14 days
Third Level Review
Outside Neutral
Usually a professional arbitrator from the American Arbitration Association. May sit as a panel of one or with a person appointed by the grievant and a person appointed by the Superintendent (or Director if the grievance concerns departmental policy).
Attempt resolution of grievance; where arbitration fails, make decision based on facts presented

*The grievant's representative (any willing ward, staff or regular volunteer) may attend any stage of the proceedings.

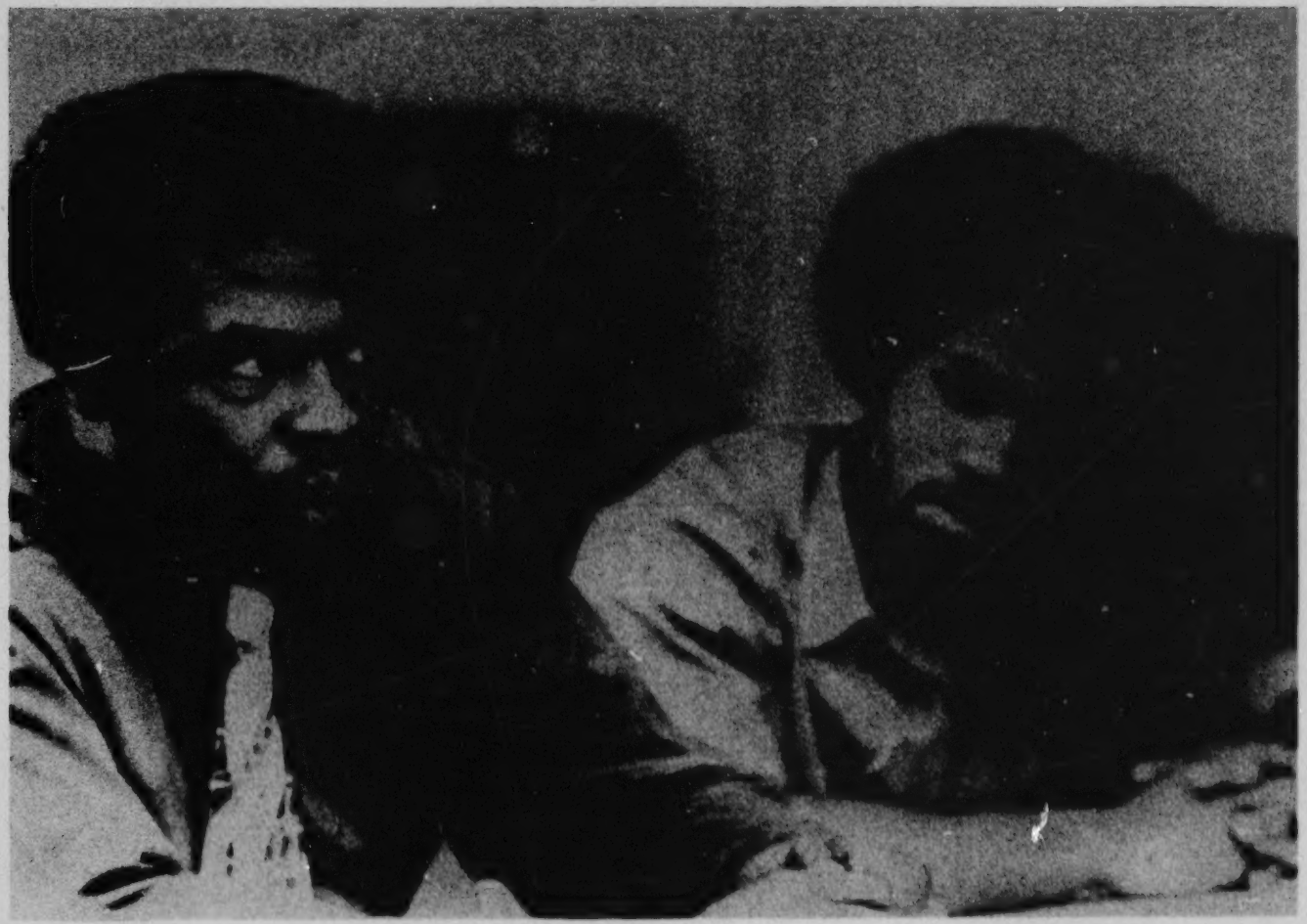
Responses to grievances, regardless of the level, are always written, stating clearly the result of the review. When a grievance response specifies that an action be taken, it also includes a date for completing the action. When a grievance is denied, the reasons for the denial are stated in the response. Each level of review is described briefly below.

3.3 Informal Review

A ward is usually required to file his complaint within 72 hours of the precipitating incident. (There is no time limit on policy grievances.) Either a Grievance Clerk or a member of a ward grievance preparation committee is available to assist the ward in preparing a simple one page form, to help him arrange for his representative, to counsel him regarding the relative merits of his grievance, and to attempt an informal resolution. Grievances may also be submitted to any available staff member in the ward's living unit. In these cases, the informal review is arranged by the staff member between the ward filing the grievance, the person against whom the grievance is filed (if both parties are agreeable) and the Grievance Clerk. In some institutions a staff member is assigned the responsibility of conducting informal grievance reviews. Often the informal review stage provides a "cooling off" period which enables grievances to be resolved through simple confrontation and discussion. Although wards are encouraged to use this level, they are entitled to refuse and the refusal in no way prejudices their case.

3.4 Ward Grievance Committee Review

If a ward decides to pursue his complaint, the Grievance Clerk then notifies the Ward Grievance Committee for his particular living unit. The Ward Grievance Committee is composed of four members (two elected wards and two line staff) and an institutionally appointed non-voting chairman (generally management-level staff) and mediator. Among the four voting committee members, the agreement of three is required for a majority decision or recommendation. In the event of a tie vote, the two conflicting recommendations are forwarded to the next level of the procedure. Since the chairman has no vote, his role is



Staff member and ward on grievance committee at YTS, Ontario.

Photo by Tia Schneider Denenberg

limited to persuasion and the suggestion of compromise solutions. In most institutions, the Ward Grievance Committee meets once a week -- on the same day and at the same time.

Prior to the Ward Grievance Committee review, the Grievance Clerk or other representative selected by the ward is responsible for assisting the grievant in adequately preparing and researching the grievance. Researching a grievance involves gathering information concerning the details or resolutions of similar past grievances from the ward's living unit records as well as from central records.

During the Committee Review the Grievance Clerk may open the meeting by reading the grievance to the committee members and clarifying facts and circumstances. After full discussion, an attempt is made to facilitate a resolution between the parties. If an agreement cannot be reached after a full airing of facts, all parties are asked to leave while the Committee enters into an executive session. Committee members then attempt to reach a resolution or, in the case of institutional or departmental policy, make a recommendation for the Superintendent's review. In this latter instance, the committee develops as many solutions as possible for the Superintendent's consideration. The grievant and the representative return to the hearing room to discuss the result. If the grievant disagrees with the committee, further discussion may follow until a compromise position is reached or until the committee recommends that its position be clearly stated on the ward's appeal.

3.5 Superintendent's Review

Any party to a grievance may appeal the results of the Grievance Committee review. When this occurs, a copy of the grievance form including the resolution or recommendation of the Cottage Grie-

vance Committee is sent to the Superintendent. If the grievance involves departmental policy, the Superintendent refers the matter to the Director's Office and notifies the grievant by memo of this action. If the grievance does not involve departmental policy, the Superintendent renders a resolution to the grievant, again by separate memo. In responding, the Superintendent or Director explores all the solutions or recommendations suggested by the Grievance Committee and fully explains the rationale for those that are rejected.

3.6 Independent Review

If the Superintendent's resolution is appealed it automatically entitles the party to the involvement of outside review. When a request for independent review is received, a representative of the Superintendent or Director meets with the grievant and his or her representative to clarify the issues, to explore all suggested solutions, and to attempt once again to resolve the grievance. If this meeting does not result in a resolution, the Superintendent contacts the CYA Statewide Coordinator for WGP, who in turn contacts the appropriate California office of the American Arbitration Association -- a national association which has assisted in arbitrating ward grievances since the early days of the WGP. Under contract with the CYA, the Association arranges for an independent arbitrator to review the grievance. If the Superintendent believes that the grievance does not warrant an independent review he may submit a request to the arbitrator that outside review be denied. Such a request may be made under the following conditions:

1. The Superintendent or Director concludes that the grievant and/or the representative are unable to state clearly the issue that is to be arbitrated;
2. In the Superintendent's judgment the grievance is frivolous; or
3. There has been a prior independent review of the same issue within a reasonable period of time.

If any of these circumstances appear to be present, the issue is submitted to all of the institution's Ward Grievance Clerks for their review and recommendations. These opinions, together with records of the earlier grievance proceedings, are submitted

to the arbitrator. The final decision on whether the grievance will be heard rests with the outside arbitrator.

When a grievance proceeds to full independent review, the Superintendent is responsible for the coordination and dissemination of information to Review Panel members. Normally the Independent Review Panel is composed of a person appointed by the grievant, a person appointed by the Superintendent (or Director, where the issue involves departmental policy), and the independent arbitrator appointed by the American Arbitration Association from its California panel. (In addition to appointing the arbitrator, the American Arbitration Association also acts as administrator of the independent review process.)

Before the start of the hearing, the independent reviewer -- acting as chairperson -- meets briefly with the other panel members to make certain that they understand their roles. Panel members are not expected to function as advocates for the grievant, Superintendent, or staff involved in the grievance. The panel's job is to find out the facts, even where the parties are not expert at presenting them, and to arrive at an acceptable solution to the problem. The panel has the authority to require, through the Superintendent, the appearance of any ward or staff member who is at the institution and/or their presentation of any pertinent records. All witnesses are sworn. Each witness is asked to tell what is known about the case and the spokesperson for each side has the opportunity to ask questions.

Obviously, a settlement reached by the parties involved is preferable to one imposed on them by others. Consequently, the chairperson encourages both sides to define their own resolution. Other members of the panel are encouraged to suggest possible compromises. Even when a solution that is mutually acceptable is not achieved, the panel must reach a decision.

The administrator must substantiate any claim of lack of facilities, budgetary or financial restrictions, or security requirements which are often the reasons for being unable to respond adequately to ward complaints. Possible means of implementation, timetables, as well as suggested solutions for problems anticipated by the Superintendent, may be presented. In some instances, the panel may recommend a trial period or further management review to confirm the advisabil-

ity of a proposed course of action. In such a case, the panel may postpone its final recommendation for a short period of time, preferably not to exceed 30 days, pending receipt of further information, committee reports, or results of any trial period. When a recommendation has been made, the panel may choose to retain jurisdiction for a limited time, generally 30 to 40 days. During this time either party may request another independent review hearing if the recommendation was not implemented within the time period specified.

Although the final recommendations of the Independent Review Panel are advisory, both the Superintendents and CYA Director have normally concurred with the Panel's opinion. In advising the grievant of the final disposition, a letter from the Superintendent or Director is addressed directly to the grievant, summarizing the entire progress of the grievance as well as any resulting changes in policy.

Sample Letter from YTS Superintendent to Grievant

Dear Paul:
On March 17, 1975, you filed a grievance regarding visiting privileges of sisters and brothers 18 years of age and older. Your request was that "sisters and brothers 18 years and over should be able to visit their brother as long as positive I.D. is shown to identify."

At the Level I hearing held on 3/20/75, it was agreed and recommended that the visiting regulation requiring sisters and brothers, 18 years of age, to accompany parents when visiting wards be deleted and that they be allowed to visit alone.

On 3/27/75, the Level II* reviewer responded that the recommendation seemed impractical due to the limited capacity of the visiting hall and the priorities which would have to be set concerning available visiting time.

My response on 4/9/75 to your appeal reminded you of the limited space available in the visiting hall and pointed out that the liberal interpretation of the existing policy allowed exceptions for each ward able to justify the need.

* YTS has a four-step procedure.

As a result of your appeal on 4/14/75, for independent review by an outside arbitrator, a hearing was conducted on 5/1/75. The recommendation of the panel is as follows:

"1. Parents are and shall continue to be the Primary Visitors to be considered for visitation rights.

2. Sisters and Brothers of the Ward who are over eighteen (18) years of age shall be permitted to visit without being in the company of the Ward's Parents, if the parents express in writing, their inability or unwillingness to visit on a regular visiting day and time.

3. If such acknowledgement of a Parent's inability or unwillingness to visit on such day is presented by the 18 or over Brother and/or Sister, and should such dated, signed acknowledgement prove to have been falsified, the extended privilege granted by this Award shall be revoked for that individual Ward only for a period of ninety (90) days.

4. This Policy shall become effective May 24, 1975, at the latest, and shall be firm for a period through and including November 23, 1975; and thereafter, unless revoked and/or revised by the Superintendent of the Facility and a Committee of the Administrative Staff and Ward Representatives in equal number.

5. The American Arbitration Association and the Impartial member of The Board of Arbitrators shall be informed no later than May 24, 1975 if this recommendation is rejected by the Youth Training School Superintendent, and jurisdiction is retained until such notification shall have been received and an additional meeting held to further pursue the Issue."

Effective 6/21/75, the existing visiting regulations shall be amended to include items 2 and 3 above. The YTS Manual and all handout material will be corrected to reflect this change as soon as possible. The recommendation (of the independent review panel) was not put into effect on the date indicated in item #4 above due to a misunderstanding in a grievance of a similar nature which would have complicated the implementation of this policy.

Again, it should be noted that only 1% or 44 grievances filed through October 1975 have been brought to independent review for resolution.

Further examples of grievances resolved at various levels of review are presented in Chapter 5. The remainder of this chapter describes how the Procedure illustrated here is administered within California's youth institutions.

3.7 Administration of the Ward Grievance Procedure

The administration of the Ward Grievance Procedure is performed by only one full-time staff person at the statewide level, the Ward Grievance Coordinator. The Coordinator is supported by the American Arbitration Association which administers the independent review level. At the institutional level, the grievance system is administered by staff members who assume WGP duties in addition to their normal responsibilities.* The bulk of the clerical administration of the procedure, including record-keeping and preparation of monthly reporting forms, is performed by wards.

The state-wide Ward Grievance Coordinator is responsible for monitoring overall operations, coordinating institutional training

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* Only the larger institutions of CYA have a full-time staff person assigned to WGP as Coordinator.

sessions, and providing technical assistance to institutions that wish to revise any procedures in the grievance system. Each institution is required to appoint its own Ward Grievance Coordinator. Appointed by the Superintendent, the individual must already hold an administrative position (such as Assistant Superintendent or Chaplain) and cannot be involved in the grievance process in any other capacity. The institutional Ward Grievance Coordinator serves as an internal monitor and is responsible for preparing monthly reports on the procedures' operations for review by the Superintendent and statewide Coordinator. In addition, each institution has a Training Officer who is available to coordinate training to staff and wards in grievance system procedures.

No new staff positions are required to operate WGP on a day-to-day basis. Since the procedure was designed by and for the wards and staff in each institution, representatives from both groups are elected or appointed to make it work. Their functions are described briefly below.

Grievance Clerk

Each living unit elects a Grievance Clerk and Deputy Grievance Clerk who serve in these positions for the length of their commitment (unless impeached through the Ward Grievance Procedure). The Grievance Clerk's primary function is to help wards effectively use the grievance process. He serves as the first and principal contact point for a ward who wishes to file a grievance and is reponsible for overall WGP administration in his living unit. This involves:

- Assisting wards in preparing grievances by formulating a clear statement of the problem and a recommended resolution;
- Assisting wards in seeking informal resolutions to their grievances;
- Arranging for staff or wards to represent grievants;
- Processing the grievance through the hearing and appeal stages;
- Informing wards of grievance dispositions and appeal rights;

- Maintaining accurate records so that grievances are not "lost," time limits are followed, and grievance dispositions are known;

- Explaining the program to new wards.

The duties of the Grievance Clerk can be separated into two areas: procedural and clerical. The first involves the preparation of grievances in the best possible manner for processing under the procedure. Obviously, grievance procedures can respond best to complaints that clearly and specifically identify both the problem and the desired remedy. Thus, the clerk's first duty is to make sure the complaint is specific and concrete, rather than vague and general. In addition, the Grievance Clerk can increase substantially the effectiveness of the procedure by helping the grievant prepare for the hearing and assisting the grievant in collecting witnesses or documents (for example, copies of contested policies). The Grievance Clerk is expected to advise wards who have the same problem to combine or consolidate their grievances or proposals. Since the clerk is familiar with previous decisions and proceedings under the procedure, he can also advise wards if a particular grievance has already been reviewed.

As the clerical administrator of the grievance procedure, the Grievance Clerk is expected to:

- maintain a log of grievances submitted and resolutions:
- arrange Ward Grievance Committee hearings and notify all participants;
- record the date, time and place of the hearings, names of representatives and a short description of the proceeding;
- ensure that appeals and appeal decisions are communicated promptly;
- notify participants of a neutral panel hearing; and
- publicize decisions.

Grievant's Representative

WGP allows all grievants to appoint a representative of their choice to assist in the preparation of his grievance. The ward may appoint another ward, staff member or a community volunteer who works regularly in the institution.* Often, the chosen advocate is a Grievance Clerk.

The representative assists the grievant through all stages of the procedure. He may present the grievant's position at hearings or simply assist him in collecting documents and witnesses. Grievants who do not feel the necessity for a representative are not required to select one.

Ward Grievance Committee

The chairman of Ward Grievance Committee is appointed by the Superintendent of the institution. This person is generally chosen from mid-level management staff (i.e., Treatment Team Supervisor** or social worker) and serves as such as long as he remains an institutional staff member. Social workers are regarded as most appropriate for this position of neutral mediator, due to their specialized training and skills. Each living unit has its own Grievance Clerk and Ward Grievance Committee and there is a chairman for each Committee.

The two staff Grievance Committee Members are usually line staff who are available at the time of the hearing and are from the living unit where the grievance is filed.*** The two Ward

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* If the ward has filed a grievance pertaining to a specific staff member's actions, he may not select as a representative that individual's supervisor.

** Supervisor of line staff in two living units.

*** In one larger institution, grievance hearings are regularly scheduled and staff members who are elected by the wards in each living unit serve on the committee.

Committee members are elected by the total ward population according to criteria and procedures suggested in Appendix B.

When a mediated settlement between the parties fails, the four committee members are responsible for finding reasonable agreements to grievances. WGP operates on the assumption that agreements reached are always better than decisions legislated. Obviously, the manner in which wards and staff approach that responsibility is critical. Staff and wards alike are expected to conduct hearings in an objective and unemotional manner. The Grievance Committee Chairman plays a vital role in the process. As a nonvoting chairman, his role is essentially that of a mediator. His purpose is to facilitate an agreement between the opposing sides and find a mutually satisfactory resolution.

Panel Members

If a grievance is appealed to the final level of the independent arbitration panel, two panel members must be selected. The chairman is a volunteer professional arbitrator who is drawn from a list of arbitrators maintained by the American Arbitration Association. The ward is allowed to choose a panel mamber and the Director or Superintendent of the institution (depending on which individual is involved) chooses the other. Panel members may be either wards or staff.

Panel members are not required to support the position of the person who chose them. They are expected to aid the chairman in determining the facts and merits of a grievance and in arriving at an acceptable solution to a problem after the parties themselves have tried and failed to reach a settlement. Panel members may, however, argue on behalf of one side or the other in closed sessions when the grievant and other participants are not present.

Appendix B presents a more detailed description of the procedure as it operates at the Karl Holton School. Based on the Karl Holton experience, Appendix C presents a discussion of special problem areas involved with the administration of a grievance procedure. We turn now to a discussion of the types of grievances which have been brought to WGP for resolution.

CHAPTER 4
TYPES OF GRIEVANCES

Left unresolved, even minor problems can grow within the confines of a prison, producing frustration and often open confrontation between inmates and staff. Many of the grievances described in this chapter may be viewed by the outsider as petty complaints which neither require nor deserve a formal resolution process. Yet the penalties of failing to deal with these problems in a systematic way can far exceed the costs of a procedure which allows inmates to discuss and appeal simple decisions which may radically affect their lives within an institution.

4.1 Grievance Definitions

In designing the grievance process, the Youth Authority developed a broad interpretation of what could constitute a grievance. A grievance was defined as " . . . a complaint about the substance or application of any written or unwritten policy of the California Youth Authority or any of its program units, or a complaint about any behavior or action directed toward a ward by staff or other wards." In addition, complaints about "actions or policies of other agencies, which exercise jurisdiction over wards"* were eligible for consideration under the grievance procedure. This clause was necessary to cover youths assigned to forestry camps which are administered by the Youth Authority but operated and co-staffed by employees of the California Department of Forestry.

The following two types of issues were excluded from the grievance system:

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* Principles, Ward Grievance Procedures, Institutions, Reception Centers and Camps, California Youth Authority.

- rule infractions and law violations; and
- actions and policies of the Youth Authority Board.

Although any actions or policies implemented by the Director of the Youth Authority were placed within the jurisdiction of the grievance system, the actions of the Board were not placed within the purview of the WGP since, for example, its activities can involve parole decisions which are a statutory responsibility. In addition, a system already existed to enable dissatisfied wards to appeal Board decisions.

Disciplinary matters involving rule or law violations were excluded from the grievance system because the CYA administrators felt that complaints about discipline were not appropriate matters for mediation. Moreover, the Youth Authority had recently implemented a new disciplinary procedure (the Disciplinary Decision Making System) that included appropriate due process standards with a two-level appeal process. The Disciplinary Decision Making System (DDMS) governs any criminal actions and infractions of departmental rules committed by wards. Only staff members may initiate DDMS proceedings.*

In short, the intent of the Grievance Procedure was to provide wards with a formal method of challenging correctional, institutional, and staff policies and to create a forum where individual actions (on the part of staff as well as wards) could be questioned. The multi-level review process places upon the individual ward the responsibility to file a grievance and to pursue the matter through the various levels. This allows wards themselves to make decisions regarding the legitimacy of complaints by providing them the opportunity to decide whether to expend the time and energy to file a grievance.

There are generally five basic types of complaints that are likely to arise in an institutional setting:

1. *Complaints about the existence of a specific departmental or institutional policy which the ward finds objectionable.* Visiting privileges, dress standards, the use of radios and telephones, and smoking and talking restrictions have been the subject of many grievances in this category.

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* Although the substance of disciplinary matters is considered within the exclusive jurisdiction of the DDMS and not WGP, the specific policies and procedures governing the DDMS may be brought to WGP.

2. *Complaints involving the specific application of a departmental or institutional policy* which does not contest the policy itself but questions its interpretation in relation to a specific instance. Here, wards have grieved over specific rulings on day passes or emergency leaves, the need for special medical treatment or psychiatric review, requests for transfers, or the classification of certain materials as contraband.

3. *Complaints involving the behavior and actions of institution employees.* Grievances have involved complaints about security personnel allegedly harassing wards, failing to inform wards of rule infractions prior to write-up, or using abusive language.

4. *Complaints involving the behavior and actions of wards.* Allegations of theft, harassment, use of abusive language, and physical threats are common to this category.

5. *Complaints specifically related to the living conditions or environment within the institution.* Complaints in this category are likely to involve the kinds of furnishings permitted by the institution, policies regarding the use of heat and electricity and related conditions of confinement.

When a ward enters a reception center in California, a simple step-by-step instruction guide is disseminated. This guide explains--among other things--how wards can initiate a grievance, what their rights are with regard to appeals and resolution, their right to receive appropriate representation, how to file an "emergency" grievance, and what safeguards against reprisals the system offers. A copy of this guide is contained in Appendix D. The instructions further explain that no immunity is offered to any person from liability for rule violations, unlawful acts, or erroneous statements. Wards may be subject to disciplinary action if they make any deliberate and malicious attempt to defame or injure another party when filing a grievance. The burden or proof in such cases rests with the accuser. Failure of a ward or staff to substantiate accusations against the other is not, by itself, used as grounds to initiate disciplinary action, but may be, where deliberate attempts to injure can be substantiated.

The intent of the assurance and principle of no reprisal is to reduce not only the actual potential for reprisal, but also to reduce the fear of reprisal and make it clear that the institution and Department support the filing of grievances. The instructions encourage wards to file a grievance, including emergency grievances, at any time they feel they are being subjected to reprisal or threat of reprisal for using the grievance procedure.

All decisions concerning grievances are public information--except in cases involving staff who may be subject to punitive action--and are made available in a central location within the institution. For the sake of confidentiality and to reduce the possibility of reprisals, however, all names of wards and staff are removed from each case before decisions are distributed. The remainder of this chapter illustrates the variety of cases which can be resolved through the grievance mechanism.

4.2 Complaints About Institutional or Departmental Policy

Grievances which are filed about institutional policy must be decided by the institution's Superintendent; cases involving Departmental policy must be reviewed by the Director of the Youth Authority. In these instances, the Ward Grievance Procedure serves less as a mechanism for promoting early and informal resolution of a ward's complaint and more as a means for guaranteeing that the complaint will be heard and considered at the institutional or Departmental level. Within the guidelines of the Grievance Procedure, the Superintendent or Director must respond, in writing, within specific time limits. Even if the complaint is not resolved to the ward's benefit, the Grievance Procedure guarantees that the ward will be heard and will receive written clarification of the policy in question.

The following three examples illustrate what the grievance mechanism may be able to accomplish in mediating complaints regarding institutional policy. In the first two examples the decisions were rendered by superintendents and both ultimately involved appeal to outside arbitration. In the third example, the grievance required review at the Director's level.

Edward T. requested a review of his institution's "out-count" procedure for wards participating in a boxing training program during the regular 4:20 p.m. institutional count, and that participants' meals be set aside to be eaten after the regular dinner time. For security reasons, the Superintendent denied Edward's request, insisting that the integrity of the 4:20 p.m. count had to be maintained. On an appeal to outside review, the arbitration panel supported the Superintendent's decision, recommending that the out-count policy should be written, available, and clear, and the exceptions to the policy should be known. Although the out-count policy was not changed, the panel suggested that boxing participants be permitted to report their count as late as 4:30 p.m. without prejudice. The Superintendent concurred with the panel's decision, allowing team staff to phone in their count before 4:30.

In another request, Richard N. asked permission to attend meals on an optional basis. The Superintendent denied his request, not wishing to compromise security or disrupt the food service program. The matter was then referred to an independent review panel which asked that the Superintendent and wards establish a joint committee to develop standards and criteria for implementing an optional breakfast program for all cottages. The panel asked that the study be completed in 60 days and if the results were favorable, that the Superintendent institute a 30-day optional breakfast experiment. The panel's study recommendation was implemented by the Superintendent as suggested. At the end of the study period, the Committee reported its opinion that an optional feeding schedule would be too dangerous, too costly, and too confusing to implement, suggesting that if such a program were to be considered further, it be limited to weekends and holidays. Based on the Committee's recommendation, volunteer breakfasts were instituted on weekends and holidays by changing the style of the meals to a combination of brunch and continental breakfasts.

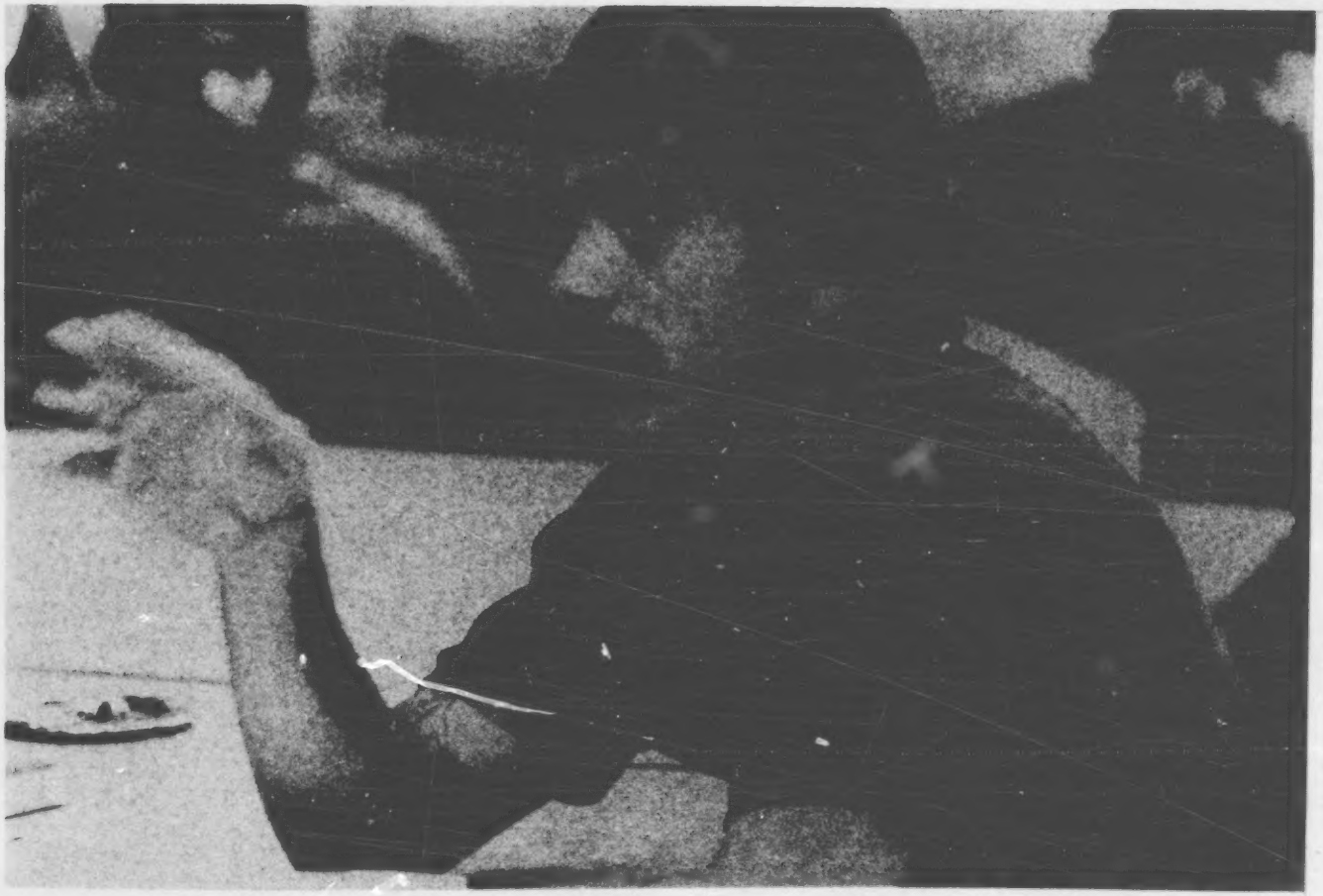
Robert B. and Dennis R. filed a "collective grievance" asking to have "X" and "R" rated movies shown to the wards at Youth Training School. Noting that Departmental regulations do not prohibit "R" rated movies, the Director denied the grievance appeal for "X" rated movies for the following reasons:

"While wards would be free to avoid viewing "X" rated movies, staff who must supervise all ward activities will unavoidably be subjected to viewing at least brief scenes of such films. This would amount to a violation of an employee's rights if he/she objected to viewing these films. Reliance on "volunteer" staff supervision of the showing of "X" rated movies would present unreasonable management problems for institution administration.

Minors are, by law, not to be shown pictures which depict "harmful matter." While minors in the community have the opportunity to attend a variety of movies which are not restricted to "adults only", minors in Youth Authority institutions would not have access to such alternatives. This would discriminate against those wards by depriving them of the opportunity to attend any movie when "X" rated films are shown.

In addition to the above, a number of adult wards committed to the Youth Authority have personality disorders which would be adversely affected by either seeing "X" rated movies or being specifically singled out as being unsuitable to see them.

There is no specific constitutional provision or statute which gives wards the right to see motion pictures. To provide only a motion picture which is viewable by only a portion of the wards would be unfair to other wards and to staff."



Ward presenting case on behalf of other ward at YTS, Ontario.

Photo by Tia Schneider Denenberg

4.3 Complaints about Specific Applications of Policy

In some instances, wards want to complain about isolated problems which relate to institutional policy but have no intention of requesting a policy change; they simply want clarification or special consideration because of the particular circumstances of their grievance.

> Richard K.'s camera was stolen. He filed a grievance requesting that he be reimbursed for $16.95 because the institution did not provide adequate security for personal belongings. Initially, the Superintendent denied reimbursement because "...the locker was ripped off through the negligence and delinquency of other wards, and not through the neglect of staff..." Upon appeal, the Independent Review Panel recommended that Richard K. be reimbursed because "the institution has the obligation to assist in safeguarding the ward's property and, in the absence of effective locker padlocks, the institution was negligent." In the Superintendent's final response he agreed with the decision of the Review Panel, and the ward was reimbursed for his stolen camera. Moreover, padlocks were checked and defective locks were replaced.

In this example, Richard K. did not grieve to have the institution assume liability for all personal property of wards. Rather, the ward grieved for special attention to the specific issue involving the security of his camera.

In other cases involving applications of policy, the grievant may request a formal statement of clarification of particular institutional procedures.

Concerned about the racial composition of one of CYA's institutions, Danny K. requested clarification of the policy for selecting wards for a particular CYA institution. The Director responded with the following letter:

Dear Danny,

You have filed a ward grievance concerning the "ethnical breakdown" in selecting wards for xxxxxx.

The only policy statement regarding criteria for acceptance into the junior college program at xxxxxx appears on page 37 of the "Guide to Treatment Programs," dated August 19, 1974, which reads as follows:

> "Both male and female students who have completed high school or are eighteen years of age or older and whose reading comprehensive scores are at least at the 10th grade level or above, are eligible to attend co-educational college-level courses at xxxxxx School. Upon successful completion of college work at xxxxxx School, wards become eligible to attend xxxxxx College provided they are not escape or security risks. Screening for male wards is carried out by xxxxxx College staff at the Southern Reception Center-Clinic. Female wards are screened for the college program at xxxxxx School."

Under no circumstances will there be any discrimination in the selection of or appointment to any programs in the Youth Authority on the basis of race, color, or creed. I cannot explain the evident skewing in terms of population breakdown at the xxxxxx School. I will be concerned and take action on any individual cases where a ward is refused entrance into the xxxxxx program on the basis of race, color, or creed.

I hope this statement of policy clarifies for you the question regarding the "selection of wards for xxxxxx."

4.4 Complaints Involving Institution Staff

If a grievance concerns a staff member and the outcome might require punitive action against that staff member, the grievance goes directly to the Superintendent's office for review rather than following the normal procedures. In these cases, the Superintendent renders a finding of fact which, if the grievant is dissatisfied, can be appealed to outside review. In instances where the allegations of a ward against a staff member are found to be true, the Superintendent is obligated to inform the ward (both verbally and in writing) that appropriate corrective action will be taken. The Superintendent is not obligated to specify to the ward what action will be taken, since it is not the function of the grievance procedure to act in any way as a disciplinary mechanism for either wards or staff.

Examples of complaints involving personal grievances against staff are rare as most complaints of an interpersonal nature are satisfactorily resolved at the very first level of informal review. The grievance procedure is particularly effective in providing a means for staff and wards to resolve their disputes without having to take formal action or, worse, ignoring the conflict. At the informal level of review the Grievance Clerk can often successfully mediate disputes between wards and staff so that both parties are satisfied with the results.

> Linda K. contacted the Grievance Clerk requesting that a grievance be filed against a counselor in her living unit. The grievance involved the alleged use of abusive language and threats. The Grievance Clerk probed further and discovered that Linda K. and the counselor had an on-going conflict which often ended in heated language on both sides. An informal hearing was set up with Linda K. and the counselor to discuss the problem. In a long, sometimes tense, discussion it turned out that Linda K. resented the counselor for reporting her on a disciplinary action some six months earlier. The counselor denied the allegation, indicating that he had been out of the institution during the week that the disciplinary action had taken place. The constant tension between the two was precipitated by Linda K.'s resentment and the counselor's defensiveness over not understanding Linda's hostility. In the ensuing discussion, an agreement was reached to call a truce on further confrontations.

In the CYA's reception centers and clinics, complaints involving staff may also raise questions concerning staffing recommendations or treatment conclusions which the ward wants to appeal. When a ward files a grievance which involves staffing recommendations, the Grievance Committee must first consider the merit of the appeal by determining:

- Whether the staffing was conducted unfairly by not observing established institutional policy and procedure;
- Whether the information presented in the case material is false, distorted, or misleading, or whether information which might have had a direct influence on the staffing conclusions is missing;
- Whether the staffing conclusions and recommendations are not consistent with the facts presented in one or more of the various separate reports which make up the case material, and such inconsistencies are not fully explained and recorded in the staffing report.

Merely to disagree with the staff diagnosis is not considered meritorious grounds for appeal.

4.5 Complaints Involving Wards

Not unlike conflicts involving institution staff, complaints brought by wards on other wards are often resolved at the informal level of review and rarely require appeal to the Superintendent's level or outside arbitration. Although the grievance mechanism is well-equipped to assist in the mediation of complaints that wards might bring against each other, such cases are usually the exception rather than the rule. (Only 3.3 percent of all grievances filed through February, 1976, involved the actions of other wards.) Generally, the grievance mechanism is used by wards who wish to complain about institutional matters. Conflict between wards can, however, be effectively dealt with either at the informal level of review with intervention by the Grievance Clerk, or with the assistance of the Grievance Committee.

Janet S. brought a complaint against Sue F. for "stolen property." During the write-up of the complaint, the Grievance Clerk suggested an informal hearing; Janet S. refused. The grievance was filed and a hearing was set with the Grievance Committee. It was determined that Sue F. had kept one of the institutional smocks which was loaned to her by Janet S.; Sue F. then had three smocks and Janet S. had only one. The Grievance Committee requested that Janet S. be issued a new smock and that Sue F. return one smock to the commissary. The matter was settled swiftly and with a minimum of dispute.

4.6 Complaints Related to Conditions Within the Institution

The ward grievance mechanism is often used to deal with ward complaints concerning living conditions within the institution. The Grievance Clerk counsels the wards as to the relative merits of each complaint, cautioning the ward to be reasonable and responsible in behavior and not to abuse the grievance system. Since the grievance system is operated by wards, the types of complaints the system handles are totally at their discretion. Wards have exercised a surprising amount of care to avoid using the grievance system as a way of bringing unfounded complaints to the attention of institution administrators. Such discretion obviously leads to more arguable cases and more serious attention when complaints must be grieved at the Superintendent level or to outside review.

The following example illustrates how the grievance procedure may contribute to improving the general living conditions by asking wards themselves to participate in the actual resolution of the complaint.

William M. filed a grievance asking that the institution place toilet seat covers on all toilets in his living unit. At the first level of review, the request was approved but the grievance still moved to a higher level as there were implications for the entire institution. At the second level, the request was turned down due to a lack of funds. At the third level, the Superintendent suggested that the grievant work with a ward-staff committee to develop specifications for toilet lids which could be produced by the carpentry and print shops within the institution. William was advised that once he delivered an appropriate pattern, all living units would be scheduled to receive toilet seat covers as requested.

CHAPTER 5
SUPPORT SYSTEMS

Industry regards negotiation and mediation as a difficult science with exact learned techniques. So does the California Youth Authority and its consultants, the Center for Correctional Justice. They put critical emphasis on developing a strong training program for initial orientation and on-going training of staff and new inmate groups. In addition to training at all levels the California Youth Authority insists on regular audits and reports on every facet of the Ward Grievance Procedure to make sure that all decisions are communicated regularly to both staff and inmates. These two support systems--training and monitoring--are the subjects of this chapter.

5.1 General Training Goals and Methods

All training activities for the WGP in California had two, almost inseparable, goals: first, to provide sufficient information to enable wards and staff to operate the mechanism successfully, and second, to create a self-sustaining training capability within each institution so that the procedure could operate without outside technical assistance. In most institutions, following the initial training sessions, the Grievance Clerk and the institution's Training Officer eventually assumed full responsibility for orienting new wards and training new WGP committee members.

Much of what happens during WGP training revolves around the specific duties assigned to each member of the Grievance Committee and the structure of the particular procedure. A Guide for Grievance Committee Hearings is included in Appendix E. This document describes the roles and duties of Grievance Committee members and has been used as a departmental guide for grievance com-

mittee training. Appendix F contains a general training guide provided by the CYA to support continuing institutional training efforts.

In general, California's initial training activities were aimed at the four groups common to all WGPs:

1) *Orientation for all Wards and Staff*. Meetings were conducted with small groups of wards (by living unit) and the purpose, principles, and day-to-day operations of the WGP were explained and discussed. Similar small group meetings were held for staff.

2) *Training for Grievance Committee Members* focussed on the role of each member in conducting a grievance hearing. Role plays and video-taped simulations were used to promote an understanding of the goal of the hearing, the responsibilities of each member, and the principles and procedures to be used in conducting a Grievance Committee Meeting.

3) *Training for Outside Arbitration* was similar to the training provided for Grievance Committee members and stressed the roles and responsibilities of each person attending the Outside Arbitration Meeting.

4) *Training for Grievance Clerks* was particularly detailed and was geared to prepare the Grievance Clerks for their role in executing the day-to-day requirements of WGP. The clerk's role as fact-finder and mediator was stressed and each procedure in WGP was fully explored.

During the initial implementation phase, the Center for Correctional Justice conducted these training programs within each participating institution. Covering roughly a two-day period, the training design stressed the ancillary goal of preparing wards and staff to train each other and to begin making the procedure the responsibility of wards and staff.

Three basic training techniques were used: video-tapes, simulations, and full group discussions. The use of video-tape allowed the trainee group to get a quick and candid look at the way hearings and the total WGP system should operate. Staged to highlight the most important features of WGP, the video-tapes helped trainees understand the relationships among participants in the procedure as well as the relation between WGP and the normal operating procedures of the institution. Trainees could *practice* their new roles, *observe* their own behavior, and *evaluate* their effectiveness (both as individuals and, in the case of the Grievance Committee, as a group). By using both pre-taped video presentations on a "model" grievance procedure in action, and video-taping trainees practicing their new roles, the training helped to dispel anxiety about how the system would work.

Simulations were used to provide the basic script for the video-taping exercises. These were structured to allow wards and staff to play through a mock Grievance Committee hearing with written role profiles to stimulate experimentation with the techniques of mediation and fact finding. In trying out different approaches to the grievance process, wards and staff were able to test their skills, knowledge and behavior in a controlled setting, and identify and correct problems before they were made "on-the-job."

Finally, group discussion was used to explore the essential elements of the procedure and to answer specific questions of wards and staff. The group discussions were guided by instructor-structured outlines which helped the trainer highlight certain elements and stimulate a dialogue among trainees. Group discussion was particularly useful in addressing the special concerns and fears of both staff and wards.

The specific topics covered in each of the four basic WGP training programs are outlined below.

5.2 Orientation for Wards and Staff

The aim of ward and staff orientation procedures was to insure that the intent and procedures of WGP were well understood and that ward and staff knew when and how to utilize the grievance system.

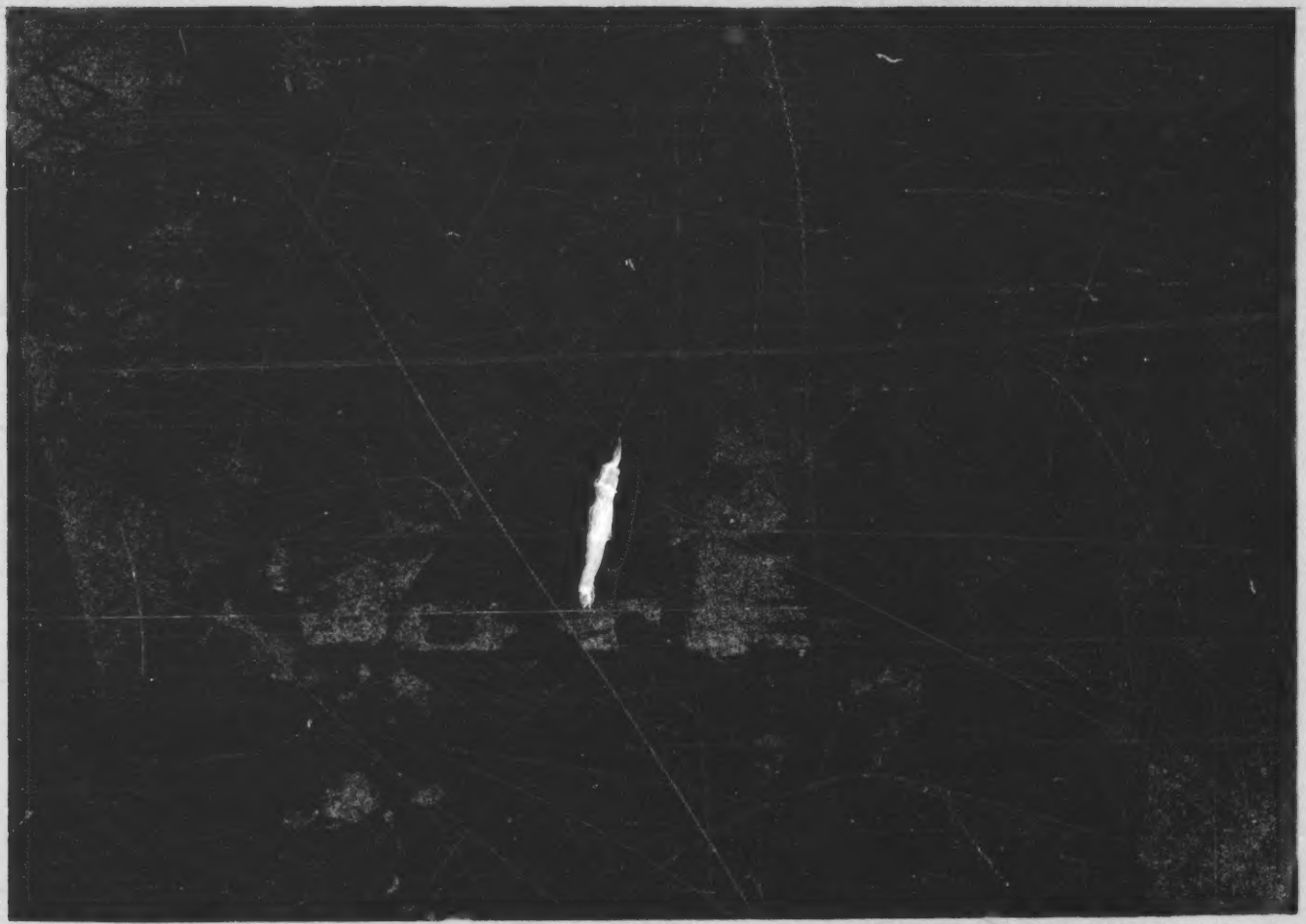
On one level--a relatively informal one--orientation to WGP was accomplished through the use of the institution's central posting system (announcing WGP-related news), the use of circulars and other publications, and word-of-mouth. Although effective means of communicating information, none of these techniques was likely to suffice alone, and in concert they still did not guarantee that *every* ward and staff member would be reached. Hence, more formal methods were also used to insure total exposure to WGP.

Depending on the size of the institution and the average length of stay of the wards, a formal orientation session was conducted in a one-to-one fashion (during reception, for example) or in small groups (a living unit, for example). Since the opportunity to discuss the procedure and ask questions about its operation was helpful to both wards and staff, an effort was made to keep groups small. Where possible, the Grievance Clerk (who was in the best position to describe the system) explained the procedures for filing a grievance, and explained the ward's rights under the system.

Possibly the most effective combination of orientation activities was when the institution provided a one-to-one overview explanation of WGP at the time of ward entrance into the institution *and* insured that small group orientations were then held to cover more detailed aspects of the system. These orientation sessions are still held periodically to balance the effect of turnover among both wards and staff.

The orientation program was geared to answer the following types of questions:

Why is there a Ward Grievance Procedure?
What is a grievance?



California corrections officials receiving training at Institute for Mediation and Conflict Resolution in New York.

Photo by Tia Schneider Denenberg

What is an emergency grievance?
How is a grievance filed?
Who can serve as a representative?
What happens if the grievance is against staff?
How is a grievance filed from lock-up or restriction?
What protection against recrimination is there?
What does the grievance clerk do?
How does an Informal Review work and who is involved?
How does a Grievance Committee Hearing work and who is involved?
What is a Superintendent's Hearing (Director's Hearing) and what does it mean?
What is Outside Arbitration, and what does it mean?
What are some examples of problems/issues appropriate for the Ward Grievance Procedure?

Since the small group orientation sessions were generally relatively short (an hour to an hour and a half) and covered a considerable amount of information, handouts and other written materials were made available. The aim of the orientation activity was to avoid the danger that wards would not take advantage of WGP either because they did not know about it, or because they did not know enough about it to use it effectively.

5.3 Training for Grievance Committee Members

To assist Committee members in understanding the responsibilities and limits of their role, the Committee training covered the following three topic areas:

- The purpose, definition, and principles of the Ward Grievance Procedure (an expanded version of the Orientation session);
- The structural and mechanical aspects of the Grievance Committee;
- The role of each committee member, including a complete discussion of each member's activities.

These sessions made the most extensive use of video-tapes of actual hearings and simulations of Committee Meetings. The Mediator, or Chairperson, as well as other members of the Grievance Committee also had access to written material, following the hearing, which described the concepts and basic techniques of mediation. This resource material was also particularly helpful to staff and clerks who would be involved in the information review process.

Since almost all staff members were likely to be asked to sit on the Grievance Committee at some time, the training was initially given to all staff. In addition, all wards who would sit on the Grievance Committee, and all Grievance Clerks, received training. The training sessions were run jointly with both staff and wards as both would share an equal responsibility in the actual operation of Grievance Committee Meetings.

5.4 Training for Outside Arbitration

Although this training session was not extensive, it was considered essential to convey the roles and responsibilities of the arbitrator, the Superintendent or Director representative, the Grievance Clerk, and the Grievance Representative. Each role was discussed and a video-tape of an arbitration meeting was used to explore the functions of each panel member.

Training for outside arbitration was given to all wards and staff who would participate in Grievance Committee Hearings. The training for outside arbitration was, therefore, easily incorporated into Grievance Committee training. It stressed the role of the outside arbitrator as an objective *advisor* to the Superintendent or Director and highlighted the skills the arbitrator must employ to arrive at an equitable agreement. It proved extremely useful to invite an outside arbitrator to make a presentation on the arbitration technique and to involve the arbitrator in the process of role definition.

As in other training sessions, written materials outlining important topics, issues, and procedures were made available to those who would attend the outside arbitration meetings. Part

of these materials included a description of the skills and techniques required for effective arbitration, compared to the techniques of mediation used in Grievance Committee meetings.

5.5 Training for Grievance Clerks

The training session for Grievance Clerks was critical for implementing the Ward Grievance Procedure. The training session required two separate meetings of roughly two hours each and was designed to complement the information the Grievance Clerk received in other training sessions. More than the other sessions, this training program was geared toward getting the clerk prepared to complete the day-to-day responsibilities of the job.

The first two-hour session served as an introduction to the importance of the Grievance Clerk, stressing the philosophy and intent of the Ward Grievance Procedure. The outline for the first session included an introduction to record-keeping and paper-handling procedures. Preceding the second meeting, clerks were given written materials describing their job function and highlighting the key issues to be discussed in the second meeting.

During the second session, the Grievance Clerks received training in how to counsel new wards (providing orientation support, reviewing the ward handbook), how to assist the ward in preparing the grievance form (stressing fact-finding, mediation, and establishing a good relationship with the ward), how to complete other paperwork which is part of the Ward Grievance Procedure, how to keep an accurate Record Book, and other details of the procedure whether inside or outside of the clerk's immediate purview. Although many topics involved procedures for which the clerk was not *directly* responsible, the clerk's day-to-day interaction with wards and staff required that he gain a thorough knowledge of the procedures so that he could function as the primary information source on WGP within the institution.

5.6 Information Systems

To support formal training and orientation efforts, both the mechanics of the procedures and the results of grievance hearings have been documented and made available to inmates and staff at all institutions.

- *Grievance Digests* which are usually kept in the institution's law library contain summaries of all grievances appealed to the Superintendent, the Director or Outside Arbitrator. Summaries are prepared by the Superintendent or Director and forwarded to the grievant with a copy to the Ward Rights Services Section within the Parole and Institutions Branch of the California Youth Authority. The Ward Rights Office is responsible for distributing updated summaries each month to all Superintendents.

  Any revisions in Departmental policy which result in response to ward grievances are also documented and filed in the Grievance Digest. These "explanation memos" refer to the precipitating grievance and fully explain and interpret the intent of the revision.

- *Archive Files* are also maintained by each institution. These files include the original grievance and each review level's written response. Again, however, to maintain confidentiality and avoid reprisals, the grievant's name is deleted from this record.

- *Grievance Procedure Manuals* are maintained by each institution in each living unit to describe the procedure and formally record all revisions in its operation.

In addition to their use for reference and orientation purposes, WGP's information systems serve an important monitoring function. The intent is threefold:

1) To insure that operations of the grievance procedure conform to the intended design;

2) To prevent the possibility of reprisals against wards who use the system; and

3) To guarantee that decisions made under the system are carried out as they were intended.*

Any system or set of procedures which is relatively new and untried will require some adjustments as the system develops. An effective mechanism for feeding back information on where and to what extent such adjustments are necessary is particularly essential to a Grievance Procedure. Without such a feedback mechanism, individuals may take it upon themselves to modify practices at their own discretion, resulting in inconsistent and potentially dangerous deviations from established procedure rules. Any system established for monitoring WGP must be able to guarantee that the operations of the system are consistent with the original intent of the procedures. The same information system can then permit sufficient flexibility to modify and adapt procedures in a *uniform* fashion under the careful scrutiny of all those who will be affected by the changes.

The dangers of allowing the grievance mechanism to be changed at the whim of individuals is surpassed only by the danger of the system being used against wards who file a grievance. The information system established for WGP must insure that no possibility exists for ward reprisals resulting from use of the system. If wards believe that the grievance system may trigger a negative reaction on the part of staff toward the ward or that the system is linked to any evaluation of the ward's attitude or behavior, its effectiveness will be severely limited.

Although protecting the integrity of the WGP design and intent requires the collection of case-specific information, this information should never find its way back into the individual ward's file nor should cases be identified by individual. Careful procedures need to be established--and a strongly worded policy concerning confidentiality needs to be written and

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* *Seen But Not Heard*, J. Michael Keating, Jr., et al., Center for Correctional Justice, Washington, D.C., p. 93-4.

disseminated--early in the design of WGP. Since protection against reprisals is one of the overriding principles of the procedure, the importance of this guarantee cannot be over-emphasized.

Finally, the information system for WGP has to provide carefully defined steps to guarantee that decisions are carried out precisely as they were intended. It would obviously be a major failing of the system if carefully processed grievances were resolved but the resolutions were never rendered. Beyond defeating the major purpose of WGP, such a failing is likely to damage its credibility beyond repair. All decisions must result in their intended action for wards and staff to invest faith in WGP's workability. The information system, therefore, must be able to monitor and track each case through to its *ultimate* disposition and should not terminate simply at the point of a committee judgment.

CHAPTER 6
REPLICATION ISSUES

The California Youth Authority has adopted WGP in every type of correctional institution--both large (1,200 wards) and small (25 wards); rural (forestry camps) and urban (Los Angeles community houses). These facilities house a range of different inmate groups under varying levels of security. Clearly, there is no limit to the type of setting in which a grievance procedure can operate. *Potentially, every system has the resources to make a grievance procedure work.*

Normally a discussion of the key factors involved in replicating a project focuses on special elements of the design which cannot be altered without seriously affecting the project's chances of success. In the case of the Ward Grievance Procedure, however, the mechanics of project design are of limited importance. Although there are obvious limits to the number of alterations that can be made in the design before the project no longer resembles a grievance procedure, the replicator should be less concerned with the mechanics of the procedure and more concerned with four broader issues:

1. establishing a clear need for a formal grievance mechanism and determining the most appropriate characteristics of the complaint procedure;

2. establishing credibility for the procedure both inside the institution and within the correctional bureaucracy;

3. determining how the grievance procedure will be integrated into normal procedure and how it will relate to existing actions and policies within the institution; and

4. carefully preparing for the implementation of the procedure.

In this chapter, each of these issues is explored in detail.

6.1 Performing a Needs Assessment

The enthusiastic replicator may question the wisdom of conducting a needs assessment for a grievance procedure. Indeed, it is tempting to assume that a grievance procedure should be an essential part of any well-run correctional facility and that conducting a needs assessment is a useless expenditure of already limited resources. The replicator should consider, however, the importance of the needs assessment in defining the nature and extent of complaints within the institution, as this definition will help determine the most appropriate characteristics of the procedure itself.

For example, the replicator needs to establish (not simply infer) whether the majority of grievances are likely to be wards grieving against other wards, wards grieving against staff, or wards grieving against institutional policy. Although any institution is certain to experience a mix of grievance types, the relative volume and importance of particular types of grievances will dictate how the procedure is to be structured--how complaints will enter the procedure, the method of contact to be used, whether appeals will be permitted and at what stages, who will attend hearings, and other similar decisions. In short, the needs assessment allows the replicator to establish exactly why the grievance procedure is important so that the "how" is sensitive to the real problems of wards or inmates within the institution.

There are a number of ways to conduct a needs assessment. Depending on the commitment of personnel and resources, some combination of interviews with staff, wards, and administrators, observations of current grievance handling, and reviews of records should be conducted. The CYA suggests that someone outside the corrections system be involved in this initial assessment process.

The Center for Correctional Justice conducted a survey in 15 prisons which reported having programs for handling inmate complaints. The questionnaire developed by the Center and included in the Appendix may be of use in formulating an appropriate data collection instrument to determine how well grievances are being handled within an institution. The Center's questionnaire is designed to assess inmate perceptions of existing grievance procedures. Other questionnaires could be developed to determine staff attitudes toward existing procedures or where no procedures exist, to define the types of problems that commonly occur and are resolved informally, if at all.

At a minimum, the nature and frequency of complaints in five broad categories should be examined:*

1. *Legal*, including post-conviction, civil and institutional problems;

2. *Discipline*, including disputes arising from interpersonal contact between line staff and inmates;

3. *Classification and Parole*, including complaints about programs and institutional placement and all matters relating to parole eligibility;

4. *Bureaucratic*, including problems arising from the application of departmental, institutional and living unit rules, regulations, policies; and

5. *Policy*, including disputes over the substantive content of department, institutional and living unit rules, regulations and policies.

Obviously, no single procedure will be able to address this entire range of problems. The Ward Grievance Procedure described here is best equipped to handle appeals on policy-related discipline problems (but *not* disciplinary actions *per se*) as well as bureaucratic and policy conflicts. Again, however, once the types of problems,

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* These categories are suggested in the Prescriptive Package, *Grievance Mechanisms in Correctional Institutions*, Center for Correctional Justice, 1975, p. 27.

the frequency of the conflict, and the appropriateness of existing mechanisms for conflict resolution are determined, it will be possible to design and successfully implement the most responsive grievance mechanism.

6.2 Establishing Credibility for the Procedure

Certainly of the three factors identified earlier as essential to replication, establishing credibility for the grievance mechanism is by far the most important. Despite a strong design, if staff, wards, and administrators believe that the mechanism is a "pacifier" for complaints, the effort is certain to fail. Even if *one* faction--staff, wards, or administrators--is not convinced of the seriousness of the procedure it will mean certain failure. The replicator's attention, therefore, should be devoted to ways in which the grievance mechanism can be introduced and implemented so that credibility is established and maintained.

Determining the leadership and commitment that will be offered by the administrator of the institution is the first priority. Since the ultimate responsibility for the grievance mechanism does rest with the administrator, cooperation at this level is essential. Despite the fact that the Ward Grievance Procedure provides for appeal beyond the level of Superintendent, and the procedure does hold the Superintendent responsible for a written (and public) response, an antagonistic Superintendent can easily frustrate the system. Moreover, staff and wards are not likely to have much confidence in a procedure that lacks the support of the Superintendent. Therefore, the replicator should encourage the commitment of administrators by dealing with each problem or concern that might be expressed at this level. Any pilot effort must proceed gradually and carefully, allowing time to explore all relevant issues and to gather sufficient data to demonstrate the potential benefits of the procedure. A similar approach should be used at the departmental level and throughout the state wherever the need to overcome resistance can be identified. The main goal of the replicator is to stimulate confidence in decision-makers that the Ward Grievance Procedure is an effective and efficient means for handling the legitimate complaints of wards.

Building credibility for the Ward Grievance Procedure with administrators involves more than simply obtaining an "OK" to try out the new procedure. Administrators must make some difficult decisions, and then stick by them, if the procedure is going to work. The Center for Correctional Justices notes:

> Essential concepts [for administrators to consider] include the independent review of the decisions of correctional managers and the meaningful participation of inmates and line staff in the operations of the mechanism, neither of which is widely accepted among most correctional workers. The first difficult decision an administrator must face is whether to embrace these concepts. It may make the choice easier to point out that, to date, there are no successful operating grievance mechanisms anywhere in corrections that do not include some form of outside review and that, among successful mechanisms, those that include staff and inmate participation are the most effective . . . . Administrators may be tempted to reject this conclusion, since it means an inevitable increase in the difficulty and cost of introducing successfully an effective mechanism. When faced with the choice, most administrators, precisely in order to avoid these difficulties, have opted for purely internal mechanisms. Their preferred alternatives, however, have been notably unsuccessful.*

Confidence in the system must also be established among staff and, almost simultaneously, among wards or inmates. Both staff and wards are likely to have a predictable, and not entirely justified, skepticism about any system which promises to resolve ward grievances. Staff are apt to feel the threat of the system's indirect "monitoring" of staff and ward relations. And wards are likely to suspect the system of singling out troublemakers and meting out reprisals.

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* *Grievance Mechanisms in Correctional Institutions*, a Prescriptive Package, Center for Correctional Justice, September, 1975, p. 27.

The majority of these concerns can most easily be addressed through the early involvement of both staff and wards in the design and operation of the procedure. If staff and wards become active participants in the development of the procedure, they will be more easily convinced of its merits and more likely to spread confidence to the ward population in general. In California, wards trust their grievance procedure because it wasn't imposed on them. They worked with staff in the design phase and they conduct open hearings *together*, with equal decision-making authority.

The involvement of outside arbitrators is an essential element in promoting the belief that the Ward Grievance Procedure is not simply another way of packaging traditional ways of dealing with ward grievances. The fact that the Ward Grievance Procedure allows for appeal to a person outside the correctional system anticipates ward concern that there is no one in the system who is truly impartial to the outcome of the grievance. As wards and staff begin to realize that the outside arbitrator is available as an objective "court of last resort" tney are likely to have more confidence in other components of the procedure.

Although the administrator retains the final say, the presence of the arbitrator insures that, at a minimum, the grievant will receive a written response. In many institutions, the simple fact that the administrator must respond directly to the grievant will open communication and may be one of the most important strengths of the grievance system.

Lastly, it is important to remember that although some credibility for the procedure is essential at the start, administrators, staff and wards will reserve judgment about the effectiveness of the system until the first few grievances have been processed. In fact, the replicator can expect that wards will probably be very conservative in their initial use of the system while they await the outcome of the first complaints filed. This "test" of the system should be carefully considered by the Superintendent or Director. If the initial grievances make their way to the Superintendent level of review and are not satisfactorily resolved (as perceived by the wards), the failure will have serious implications for subsequent use of the procedure. Although consideration of this phenomenon does not necessitate "throwing" initial decisions in favor of the wards, it does suggest the need to be particularly sensitive to compromise in the project's early stages.

6.3 Integrating the Procedure into the Institution

The Ward Grievance Procedure is not a substitute for the normal disciplinary or investigatory procedures of an institution. On the contrary, the Ward Grievance Procedure should be a complementary system which is geared to concentrate not on questions of innocence or guilt but on achieving mutually satisfactory compromises to complaints made by wards. The attempt is not to affix blame but to establish a means of resolving the conflict. As such, the Ward Grievance Procedure should function independently of all other grievance or disciplinary systems operating within the institution.

Despite this independence, there is obviously a need to integrate the procedure into the overall operations of the institution. For example, if there are actions or policies or the institution which apply to personnel or agencies outside of the institution (because of contractual obligation, for example), then these personnel or agencies should be subject to participation in the grievance mechanism. It is important that the wards do not perceive any discrimination in the jurisdiction of a grievance procedure, particularly where this discrimination might exclude personnel who may be the subjects of certain grievances.

Policies and procedures should be established which formalize the jurisdiction of the grievance procedure and make its use a guaranteed right of the wards. A careful review of both departmental and institutional procedures should be conducted to identify and resolve any contradictions between current procedures and those to be adopted under the grievance mechanism. To resolve any subsequent jurisdictional disputes, the grievance procedure itself should be used. In fact, one of the eleven principles which guides the operation of the Ward Grievance Procedure is that "the procedure itself shall be used to determine whether a complaint will be heard."

The Ward Grievance Procedure should be made a formal part of institutional policy and procedure. All of the rules and mechanisms governing the procedure should be written and incorporated into the regulations governing the operations of the institution. This effort to formally "institutionalize" the grievance procedure will help to insure that procedures will not be changed without the formal concurrence of wards and staff.

In the long run, true permanence might require legislative action. While the California Youth Authority has succeeded in incorporating a Ward Grievance Procedure in every youth institution, if a new CYA Director were not fully supportive of WGP, individual institutions might elect to terminate their involvement in the procedure. Although termination is unlikely, the incorporation of the Ward Grievance Procedure into legislation governing the rights of wards, would guarantee inmate access to the procedure, making it an integral part of the policies and procedures of each institution.

6.4 Preparing for Successful Implementation

As noted earlier, successful implementation of the Ward Grievance Procedure calls for a careful assessment of needs, establishing credibility for the procedure inside the institution and throughout the correctional bureaucracy, and developing an awareness of how the grievance mechanism will operate in conjunction with other procedures within the institution. Each of these conditions requires time and careful experimentation. Together they suggest that the best way to proceed is to establish one or more pilot projects before attempting to implement on a department-wide basis.

The experience of the California Youth Authority confirms the fact that:

> Incremental implementation creates practical models, which can do more to allay staff and inmate apprehensions in other institutions than any amount of verbal assurances. The best propagandists for a grievance mechanism . . . are staff members and inmates who have been exposed to or involved in an effective one. Such personnel provide a valuable cadre of design, training and orientation specialists who can be extremely useful during expansion of the mechanism to other institutions within the jurisdiction . . . . Initial experimentation and gradual expansion have the additional advantage of providing the opportunity to evaluate and, where necessary, to modify a mechanism before it has been introduced system-wide.*

* *Grievance Mechanisms in Correctional Institutions*, a Prescriptive Package, Center for Correctional Justice, Sept., 1975, p. 28.

First-level grievance hearing at Karl Holton School.

Photo by Tia Schneider Denenberg

Establishing an experimental project also enables the replicator to consider design changes that may be necessary to accommodate differences in the organization of various institutions. For example, short-term diagnostic facilities or facilities where there is a relatively high turnover of residents may require special procedures to expedite complaints within available time constraints. Whatever the necessary modifications, the basic principles developed by the California Youth Authority and enumerated in Chapter 2 will provide a sound framework for developing an effective procedure. For example, inmate participation in the design *and* operation of the procedure is essential. In a short-term facility this may translate into a quickly rotating inmate position or it may suggest the involvement of inmates from a more long-term facility which is located nearby. Provision for levels of review is also essential, but the levels can and should be kept to a minimum--a particularly important guideline for short-term facilities. There are limitless design alternatives for the Ward Grievance Procedure; hence, there is no limit to the type of facility in which it can operate. It is equally applicable in adult facilities as it is in juvenile facilities. The only two variables which will seriously affect its potential are the commitment and active leadership of correctional administrators and the willingness of all participants to adhere to all of the basic grievance procedure principles.

Appendix C contains further discussion of issues to consider once a grievance procedure has become operational. Based on WGP experiences within the CYA's Karl Holton School, the discussion highlights a number of special problem areas which will be of interest to those responsible for introducing grievance procedures at the institutional level.

CHAPTER 7
RESULTS AND COSTS

CYA's program of controlled confrontation has worked. Individual grievances have been resolved, often stimulating important changes in institutional policies and procedures. This chapter describes the methods and results of WGP's formal evaluation efforts. The first section reviews the design and data collection methods used by WGP's evaluators. The second section provides a summary of the evaluation results, discussing seven areas of program influence in detail. The third and final section discusses the costs of implementing both the program and the program evaluation.

7.1 Prior Evaluation Efforts

Since it was introduced, California's WGP has been intensively evaluated. The Division of Research of the California Youth Authority has conducted an ongoing evaluation since September, 1973, and the Center for Correctional Justice conducted an independent evaluation in 1975. Both of these efforts are described briefly below.

CYA Evaluation

The Research Division of the California Youth Authority has continually collected information on both the process and results of WGP. The evaluators consider process or "functioning" measures to include information regarding the actual processing of grievances (e.g., number, type, disposition, adherence to time limits) as well as attitudes regarding these activities (e.g., comfort, perceived fairness, and satisfaction). Impact measures, on the other hand, include any measurable effects of the program which do not

Grievant listening to his case being presented at YTS, Ontario.

Photo by Tia Schneider Denenberg

specifically involve grievance procedures (e.g., changes in the social climate, disciplinary activities, litigation).

Most of the Division's process data has been obtained through WGP's information systems discussed in Chapter 5. The central office has also conducted frequent on-site visits to the various Youth Authority institutions to observe proceedings and administer attitudinal questionnaires. Impact data has been gathered by interviewing staff and wards, administering pre and post implementation questionnaires, and collecting supplementary data on measures of institutional functioning. The results of the Research Division's evaluation of the first institution to implement the program are reported in the document, *Final Evaluation of Ward Grievance Procedure at Karl Holton School*, published in November 1974. Additional data on the seven institutions are presented in the document, *Right to be Heard: Evaluation of the Ward Grievance Procedure in the California Youth Authority*, published in July 1975. More recent data on the operations of the Procedure throughout the Youth Authority (with special attention to operations at the Youth Training, O.H. Close and Preston Schools) have been presented in a second volume entitled *"Right to be Heard..."* published December 1975 and a summary statistical Report dated February 1976.

Evaluation Activities of the Center for Correctional Justice

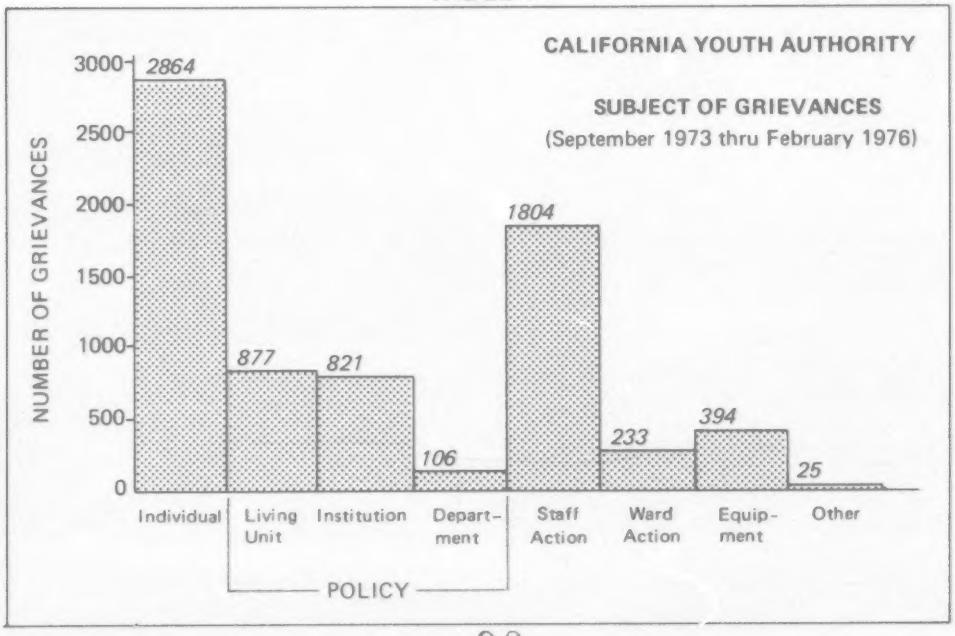
In addition to the Research Division's activities, the Center for Correctional Justice has evaluated WGP in both the Karl Holton School and the Youth Training School. At each institution the Center interviewed the superintendent, staff, and wards involved in the operation of the grievance mechanism. Several staff members and inmates not directly associated with the mechanism were also interviewed. All of the interviews were semi-structured and were designed to ascertain the interviewees' knowledge of the procedure, assessment of its effectiveness, ideas for its improvement, analysis of its strengths and weaknesses and guidance for its introduction elsewhere. The Center also administered a questionnaire to a ten percent sample of the ward population at each institution. The questionnaire included 15 questions dealing with the respondent's characteristics and knowledge and willingness to use the grievance mechanism available in his institution. For purposes of comparison, the same questionnaire was administered to inmates at 15 other correctional institutions around the country.

Before turning to the results of these formal evaluative studies it is useful to review overall descriptive measures of the Grievance Procedure.

7.2 Descriptive Statistics

According to CYA, a total of 7124 grievances had been filed by wards between September 1973 and February 1976. Table 1 provides a summary of the subjects of grievances at the various CYA institutions as well as totals for the entire Youth Authority. As this table indicates, the largest subject category (40.2 percent) involve *individual* problem grievances -- complaints made against the way in which an uncontested policy or rule was applied to an individual. The second largest categories (25.3 percent each) involved grievances requesting that a specific *policy* be changed and grievances concerning *staff action* -- complaints directed toward what was seen as an arbitrary or unfair act by staff. The remaining grievances dealt with ward action, equipment, and miscellaneous issues and accounted for a small proportion of total grievances.

TABLE 1



The relatively low percentage of staff action grievances was an encouraging finding to staff of the institutions. George Nicolau, Vice President of the Institute for Mediation and Conflict Resolution and a consultant to WGP has stated that staff were apprehensive prior to implementation of the program that "the procedure would be flooded with complaints against their individual actions and that they would spend their working days on trial."

Of 7124 grievances filed through February, 1976, approximately 15 percent were pending a disposition. Fifty six percent of the dispositions were reported to be in favor of the grievant (36 percent were totally upheld while 20 percent were compromised). Twenty-four percent of grievances were denied and three percent of dispositions were categorized as undetermined due to ambiguities in interpreting the written grievance document.

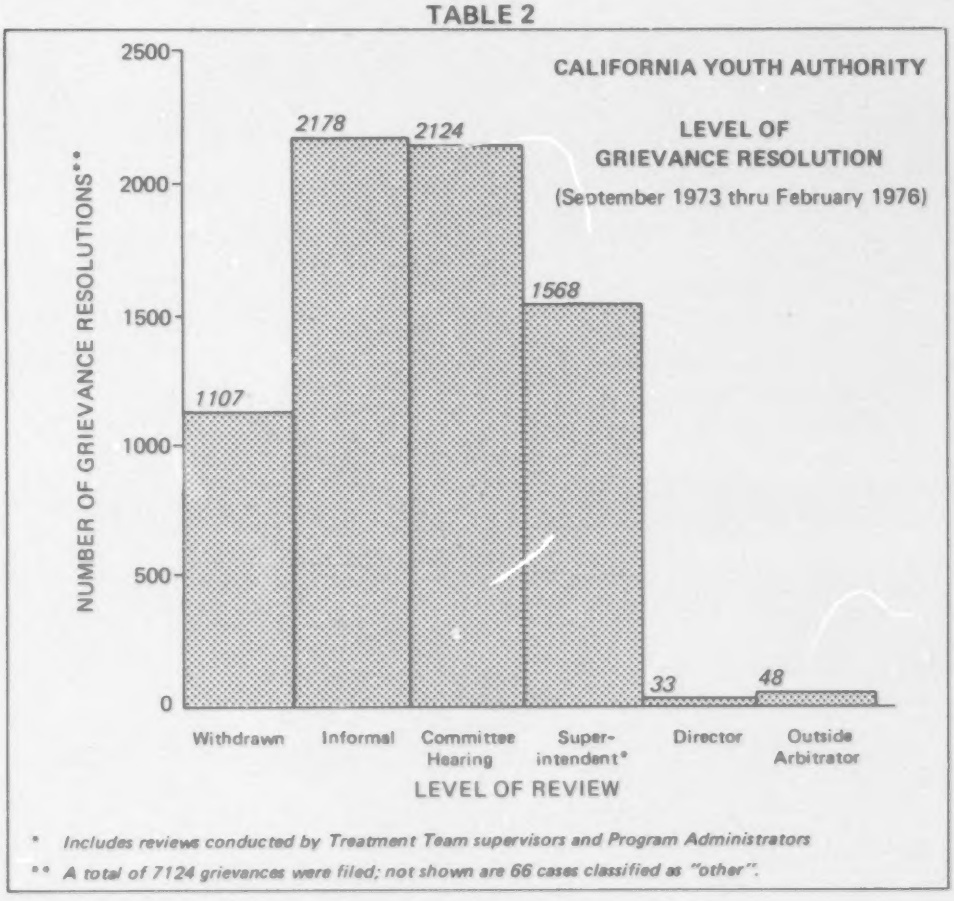
Table 2 illustrates the levels of review at which the grievances were resolved. The informal level of review is the most typical level of resolution followed by committee hearings. Forty eight grievances (which comprise less than 1 percent of the total) have gone to outside arbitration. Administrators and evaluators of the program feel that although outside arbitration occurs rarely it serves to increase the credibility of the grievance procedure and strengthens efforts to resolve grievances at the earliest possible stage.

Adherence to time limits has also been periodically monitored for the total sample of grievances. The December evaluation report indicates that 34% of reviews conducted through October 1975 exceeded established limits. A slight tendency was observed for increased violations of time limits at higher levels of review and a correlation between the number of reviews conducted and the extent of compliance to time limits was also reported.

The December 1975 report also presents data on the number of grievances filed by month in the Youth Authority institutions and concludes that after variations in the early stages of implementation, the rate of filing is relatively stable. Substantial variations were observed among various reporting units. Predictably, those schools with the longest experience have filed the highest number of grievances. The lowest number was reported from CYA's Parole Units where procedures were initiated on an experimental

basis in mid 1975. At the time of the December report only five grievances had been filed by parolees from only two of the four offices operating the Procedure. The evaluation indicates that Parole staff have questioned the need for such a system since there appears to be little to grieve and those grievances that do exist can be handled by existing informal channels. The researchers suggest that further evaluation is needed to determine the extent to which parolees are aware of the existence of the Procedure and how best to achieve a workable system in the Parole setting.

TABLE 2



* *Includes reviews conducted by Treatment Team supervisors and Program Administrators*

** *A total of 7124 grievances were filed; not shown are 66 cases classified as "other".*

Changes over time in the subject matter of grievances were also analyzed. A shift in subject matter was observed with a decline in grievances dealing with policy changes and an increase in those challenging the application of existing policies and actions taken by staff.

7.2.1 Ward Ability to Express Substantive Complaints*

Clearly, the data presented in the previous section show that wards in all institutions are using the system. A number of measures were used to find out whether wards were using the system to deal with matters they considered serious -- reported level of comfort in filing grievances on a range of topic areas, reasons non-users have not filed grievances, and wards' perceptions of staff attitudes toward filing grievances.

Wards at Karl Holton School were asked what happened when they complained prior to the implementation of the grievance procedure; 54% of the sample of wards responded that their complaints were seldom or never resolved. Data presented above demonstrate that the vast majority of grievances filed under the grievance procedure were resolved, presumably improving substantially upon the prior situation. Although these data are not strictly comparable, the magnitude of the difference between past perceptions and present realities certainly supports the belief that resolution has shifted in the ward's favor since the procedure was introduced.

In order to evaluate the accessibility of the system further, wards were asked whether they felt comfortable in filing various types of grievances. Response categories were most types (of grievances), some types, few types, or none. At Karl Holton

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* Unless otherwise noted, the remaining discussion in this chapter is based on the July 1975 evaluation report cited above. Although additional information is available in the December report, the July publication places special emphasis on the Karl Holton and Youth Training Schools, institutions with the most experience with WGP.

School, data were analyzed in terms of whether the respondents were users or non-users of the system. As might be expected, those who refrained from filing grievances appeared to do so because they felt comfortable in filing only on a narrower range of complaints than users. Forty six percent of the wards sampled who use the system stated that they would feel comfortable filing most types of grievances. Non-users of the grievance system were asked how they dealt with complaints. The most typical response at the Karl Holton School was talk with staff (45%). When asked why they had not used the grievance procedure, the single most common reason was "no complaint serious enough." In the 1975 sample, 35% of Karl Holton non-users and 23% of the Youth Training School sample also responded that the system lacks credibility.

At the Karl Holton School, measures of wards' perceptions of staff reactions were taken both in 1974 and 1975 as these perceptions were expected to influence wards' desires to use the system for expressing complaints. Slightly over 50% of wards using the system in 1974 perceived staff to be either supportive or neutral to the use of the grievance procedure. A substantial reduction in this proportion occurred in 1975 when only 33% of wards held these views. Over the same period the proportion of wards viewing staff reactions to be negative increased from 30 to 45%. Users of the procedure at the Youth Training School viewed staff reactions to be more positive with approximately 76% stating that staff reaction was either supportive or neutral. The cause for the change in perception of staff support at Karl Holton School is not clear, although the changing nature of the grievances (moving from policy issues to individual complaints) might have caused the grievances to be more threatening to staff.

Additional data relevant to the expression of substantive complaints were presented in the Center for Correctional Justice evaluation. In the period 1974-75 (under a Prescriptive Package grant from the National Institute of Law Enforcement and Criminal Justice), Center staff visited 17 correctional institutions with varying types of grievance mechanisms (ombudsmen programs, inmate councils, and formal grievance procedures). Data were collected at each of the institutions through interviews and the administration of a 15-item questionnaire to a 10% sample of the institution's population. (Appendix G)

At each institution visited, the Center interviewed the warden and staff and inmates involved in the operation of the grievance

program as well as staff and inmates not directly associated with the mechanism. The 10% questionnaire sample was selected randomly and questionnaires were administered to wards in groups of 15-25 at a central location. Wards were instructed that responses were completely anonymous and that no one in the institution would be permitted to see individual questionnaires. The CYA's Ward Grievance Program was reported to compare very favorably to the other programs investigated by the Center. For example, wards were asked whether they would use the grievance mechanism at their institution: (1) if they had a serious complaint about an institutional policy; and (2) if they were treated very unfairly by a staff member. The CYA institutions led all other institutions on these measures, most by very wide margins. Youth Training School wards responded affirmatively regarding policy complaints 68% of the time and 61% of the time regarding staff complaints. A similarly high response level was observed at the Karl Holton School: 67% of the wards sampled stated that they would bring policy complaints to the grievance mechanism and 67% said they would bring staff complaints to the mechanism. Few other programs exceeded 30% of their inmates. The evaluators noted that the most successful programs had a number of similarities including active participation of inmates in the operation of the mechanism.

7.2.2 Ability to Achieve Fair and Satisfactory Resolutions to Grievances

Success of the grievance procedure is dependent not only on the provision of a system which serves to process complaints efficiently, but also upon the "perception" by wards that the system is fair and results in satisfactory resolutions to their complaints. To assess these perceptions, wards who had attended grievance hearings were asked if the hearings were fair, and wards whose grievances had been resolved were asked to judge the degree of satisfaction they felt both with the resolution itself and with the way that the resolution was eventually carried out.

At the Karl Holton School, 36 wards reported that they had attended a hearing on their grievances. Forty-seven percent of this group stated that their hearing was fair. Of the wards perceiving their hearing to be unfair, no clear consensus emerged regarding the

cause of the unfairness. Wards presented a variety of reasons for their perception of unfairness including people's unwillingness to listen, or their feeling that committee members had their minds made up prior to the hearing. Wards' perception of the fairness of hearings as a function of the type of resolution reached in their case were also reported. Of the eight Karl Holton wards who had grievances denied, only two viewed the process as fair. Surprisingly, however, only 47% of the wards whose grievances were upheld viewed their hearing as fair. The evaluators concluded that "it would seem that wards are able to separate out feelings about the process of resolving complaints from the resolutions themselves." Additional analyses demonstrated that perceptions of fairness varied depending upon the ethnic background of the grievant. Over half of the white wards viewed the hearings as fair, but only 20% of the black wards had a similar view.

At the Youth Training School judgements of fairness were substantially more favorable than those observed at the Karl Holton School. Seventy-seven percent of the 207 wards attending hearings viewed the hearings as fair. This result is particularly impressive given the large number of wards sampled. Even among grievants who had their requests denied, 70% still felt that their hearings had been conducted fairly. The cause for the substantial institutional differences in perceived fairness is not clear. It is interesting to note, however, that ethnic group differences in the perception of fairness of hearings were not observed at the Youth Training School.

Measures of the satisfaction of wards with the resolution of grievances were assessed at the Karl Holton School in both 1974 and 1975. Results were quite consistent: 51% in 1974 and 55% in 1975 reported satisfaction with the resolution of their grievance. The evaluators noted that a substantially greater increase in the satisfaction might have been anticipated in the later sample, however, since a greater proportion of grievances upheld the grievants in the second sample. An internal analysis in terms of type of procedure used (formal or informal) demonstrated no differences in satisfaction of Karl Holton wards as a function of whether a hearing was held. This finding is in contrast to an initial study conducted by the researchers, in which informal resolutions were found to be viewed as less satisfactory than formal resolutions. Wards at Karl Holton School were also asked whether their resolutions were carried out satisfactorily. More than half of the wards sampled stated that although the resolution

had granted their request totally or in part, the resolution had not been adequately carried out. Differences in satisfaction with the implementation of their resolution were observed depending on the nature of the procedure used, with 70% of wards achieving an informal resolution being dissatisfied, while 44% having a formal resolution found implementation of the resolution inadequate.

At the Youth Training School levels of satisfaction with grievance resolutions were somewhat higher than those at the Karl Holton School, with 66% of 263 wards stating that they were satisfied with their resolution. The degree of satisfaction was observed to vary among the different living units at the Youth Training School. Similarly, satisfaction with the implementation of resolutions was also somewhat greater at YTS. Over 50% of the wards stated that they found the implementation of resolutions to be satisfactory. Interestingly, the pattern of satisfaction for informal vs. formal means of resolution was the opposite of that observed at the Karl Holton School: At YTS, informal resolutions were judged to be more satisfactory. Differences of this sort illustrate the need for a detailed analysis of the types of procedure used, and differences in institutional norms which make one procedure more adequate than another at a given institution. It is clearly risky to develop generalizations regarding procedures on the basis of data from single institutions, and the variations in the California Youth Authority findings in differing types of institutions demonstrate the complexity of the issues involved. Intensive evaluation is advisable in whatever setting a grievance program is established in order to determine what procedures function most effectively in the specific setting.

7.2.3 The Degree to Which Grievances are Processed in a Workable Manner and in Line with Established Principles

The CYA evaluations also collected data on the conformity of grievance processing to eight major principles of the program:

1. the extent to which a wide variety of complaints are processed by the system;

2. the ability of the system to arrive at a decision on complaints;

3. the movement of the complaints through the various levels of review in line with established principles;
4. the use of hearings and attendance at the hearings of individual grievants;
5. the degree to which rights to appeal are honored;
6. the availabilty of representation for grievants;
7. the use of written responses to grievances; and
8. adherence to time limits in the processing of grievances.

The data presented provide support for goals number 1-3 by demonstrating the wide range of topics on which grievances are filed, the high percentage of grievances which were resolved by the system, and the use of the varying levels of the system. These data suggest that the overall functioning of the system is effective. The latter goals focus on specific rights guaranteed by the system and deal with the degree to which these rights are granted.

Data on goal number 4 -- the right to a hearing -- demonstrate the type of problems which can arise in attempting to adhere to stated principles of the grievance procedure. At Karl Holton School only roughly half of the wards interviewed reported having a hearing. Hearings were not held for a number of reasons. For example, of 40 wards not receiving a hearing, 12 had emergency grievances which were immediately forwarded to the next level of review without a hearing, 23 wards resolved their grievances informally with a staff member prior to the time that a hearing would have been held, one had his grievance forwarded to the next level of appeal due to failure of the first level of review to meet the time limits for reviewing a grievance, and four had no hearing for miscellaneous reasons. When wards not receiving hearings at Karl Holton School were asked why they had not had a hearing, 49 percent stated that the decision was made by the staff not to have a hearing. At the Youth Training School roughly two-thirds of the 211 wards interviewed reported having a hearing. Of those not having a hearing, over 70 percent said that the decision not to have a hearing was made by staff members. With regard to ward attendance at their grievance hearings, both the Karl Holton School and the Youth Training School appear to be operating in line with established procedures. Thirty-six of 39 wards with hearings at the Karl Holton School had attended their hearing and 207 of the 211 wards sampled at YTS had attended their hearing.

Rights to appeal also appear to have been respected by the two institutions. At Karl Holton school, 40 percent of grievances were settled beyond the first review level. Wards who did not appeal but who expressed dissatisfaction with the resolutions they achieved were asked about their reason for not appealing. In 1974 27 percent of the Karl Holton wards stated that they were not sufficiently dissatisfied to carry out an appeal, and another 57 percent stated that the appeal would not help. The 1975 sample gave a somewhat more promising response, with 30 percent saying they were not sufficiently dissatisfied and only 28 percent saying that the appeal would not help. The Youth Training School had similar results to the 1975 Karl Holton sample, with 18 percent saying they were not sufficiently dissatisfied, and 27 percent saying it would not be helpful. In this group a small but perhaps important proportion (18%) stated that fear of reprisal inhibited them from appealing.

Goal 6 involved the right to representation for wards at grievance hearings. At Karl Holton School only one ward stated that he was not adequately represented, and he stated that this was due to the fact that he could not find the right person. A similar positive response was reported from the Youth Training School where only one of 211 wards felt he was prevented from having adequate representation. Wards not having representatives at YTS stated that they did not wish to have them -- except for the case noted above.

Goal 7 deals with the right to a written response, and in this instance the Karl Holton School performed more effectively than the Youth Training School. Eighty-nine percent of wards at Karl Holton reported receiving a written response while less than two-thirds of Youth Training School wards reported receiving written responses.

The last goal dealt with adherence to time limits. Both the Karl Holton School and the Youth Training School reported that roughly two-thirds of grievances were processed within the prescribed time limits. In the early phase of implementation of the program at Karl Holton, however, adherence to time limits averaged only 50 percent. Patterns of adherence to time limits varied by specific living units within the institutions and also by level of review.

The study conducted by the Center for Correctional Justice provides more information on the value of the principles used in the CYA

Ward Grievance program. The Center for Correctional Justice evaluators isolated several characteristics which they felt were critical to the effective operation of a grievance procedure and rated the 17 grievance proceedings they had observed on 5 point scales for each of the characteristics. The evaluators concluded that three factors are most critical in the effective operation of a grievance procedure; (1) participation on the part of inmates; (2) Outside review of cases when necessary, and (3) timeliness in responding to inmates' grievances, insured by the establishment of strict time limits for various aspects of the procedure. The CYA ranked remarkably well in comparison to other grievance mechanisms which were assessed. The Research Division's evaluation demonstrated, however, that the procedure clearly is not perfect, and many areas are in need of improvement. The CYA's ongoing evaluation provides a strong stimulus for these improvements.

7.2.4 Ward and Staff Attitudes Toward the Grievance Procedure

A number of questions were posed to both wards and staff at the two institutions to assess perceptions of the need for the program, its usefulness, and adequacy of training. Staff at both institutions were asked whether they felt the grievance procedure was needed. Seventy-three percent at Karl Holton and 70 percent at Youth Training School responded that it was. The responses varied substantially depending on the specific job level of the staff member. Staff members were also asked about the adequacy of the training they received to operate the grievance system. At Karl Holton School many staff felt that training was inadequate, including more than half in the 1974 sample and somewhat less than half in the 1975 sample. Fifty-four percent of the staff of the Youth Training School judged their training to be adequate. Additional responses regarding the training program are available in the original evaluation report. Staff were also asked a number of questions regarding the adequacy of the current definition of a grievance and were asked to categorize the grievances which had been previously filed on a number of dimensions.

Both wards and staff were also asked about the usefulness of the ward grievance procedure. At Karl Holton School over 80% of staff judged the procedure to be fairly or generally useful, and almost

80% of wards at the Youth Training School had a similar opinion. These results are very encouraging, and suggest that the program has sufficient support among wards and staff to be able to overcome some of its current problems.

Wards and staff were also asked about their expectations regarding fair resolutions being achieved on a grievance. At Karl Holton School majorities of both wards and staff responded that fair resolutions could be expected some or all of the time. At the Youth Training School, comparative data on fair grievance resolutions were gathered before and after implementation of the program. Substantial increases in both ward and staff estimates of fairness occurred following implementation of the ward grievance procedure.

7.2.5 Ward Knowledge of the Grievance Procedure

A seventeen-item questionnaire was completed by wards at both the Karl Holton School and the Youth Training School. The questions dealt with specific items of information regarding procedures used in the ward grievance procedure. Ward responses were most accurate on the question regarding the procedure for filing a complaint and worst on time limits guaranteed by the system. The evaluators concluded that the wards know the bare minimum required to file a grievance but that an education program is required to have wards thoroughly understand the grievance procedure. A number of issues regarding potential social desirability response biases in the scale weaken its usefulness. Wards were far more accurate on questions requiring a "yes" rather than a "no" response, suggesting a bias towards "yes-saying." Wards at the Youth Training School also demonstrated a relatively limited grasp of the procedure with 58% correct responses. Researchers categorized a subset of the items as dealing with critical information regarding the system, and responses to these items fortunately were more accurate than those to the test as a whole. However, it is clear that continuing effort is needed in teaching program concepts to wards.

7.2.6 Institutional Impact of the Ward Grievance Procedure

A range of measures was used to assess the impact of the ward grievances procedure on the institutions. Staff perceptions of

ward-staff relations were measured at both the Karl Holton School and the Youth Training School. At Karl Holton, 66% of staff reported no change in relations, 25% viewed relations as more positive and 7% viewed them as more negative following implementation of the program. At the Youth Training School 40% viewed relations as more negative. At YTS a number of additional questions were asked to assess changes due to the program. When asked how often staff members acted on ward suggestions, wards indicated that staff acted 37% of the time before the program was implemented and 59% of the time after WGP was established. A similar improvement was observed at YTS when staff were asked to characterize ward-staff relations on an additional measure. Before the grievance program, 43% of staff characterized relations as OK or better; after the program, this percentage increased to 77%. Staff were also asked to assess change in ward-ward relations. Seventy-seven percent of Karl Holton staff and over 50% of the YTS staff sampled felt that no change in ward interactions had occurred due to the program.

In addition to the various measures of staff perceptions regarding the impact of the ward grievance procedure, objective measures of the impact of the program were also assessed at the Youth Training School, including disciplinary transfers, staff turnover and disciplinary actions. No significant findings were reported for any of these measures.

In sum, considering the difficulties of conducting a true experiment and obtaining quantitative measurement of the subtle social changes which the procedure was designed to induce, WGP evaluations have been able to extract some fairly concrete findings and well-supported recommendations. Notably, particular attention has been focused on monitoring the procedure's basic functions in order to identify and resolve specific operational problems that might inhibit wards' willingness to use the system and its effectiveness in clarifying or changing institutional and Departmental policies.

7.3 Costs

For the two-year period of July 1973 - June 1975 the CYA declared a total operational budget of $244,301, of which $108,709 is judged to be a one-time start-up expenditure for consultant services and training. In addition, the CYA's Research Division expended approximately $19,618 for the evaluation of the procedure

at the Karl Holton School during the pilot phase. An LEAA grant of $91,447 supports current research activity.

At the time of the procedure's implementation the CYA decided that, with the exception of the costs associated with the consultant contract with the Center for Correctional Justice (supported largely by a grant from the Rosenberg Foundation) and the evaluation, the program would be implemented within existing resources. As a result, there is no Ward Grievance Procedure budget as such since the costs of considering complaints are distributed among staff members at the various review levels. Estimates of the staff time required to operate WGP for the period July 1, 1975 to June 30, 1976 are provided at the conclusion of this chapter. Developed by WGP's State-wide Project Cocrdinator, these figures are considered to represent the maximum costs associated with training wards and staff and operating WGP at ten major institutions, five forest camps, a half-way house, and the CYA's Parole Services Units, assuming that over 10,000 grievances will be processed annually. Actual experience in 1976 suggests that between 600 and 700 grievances a month or roughly 7500 per year may be a more appropriate estimate.

The proportions of staff time allocated to the procedure were estimated through observation of program operations rather than systematic data collection and should only be regarded as a tentative guide. As the statewide coordinator has noted, it should also be stressed that those staff costs, for the most part, would also be incurred in the absence of the Ward Grievance Procedure:

> "We may safely assume that staff would be dealing with these same problems informally, regardless of Ward Grievance Procedure. Experienced line staff will testify that prior to Ward Grievance Procedure, they often had to deal with the same ward over the same problem again and again. Ward Grievance Procedure now provides a means of bringing these complaints to closure."
>
> "Ward complaints and arguments over hair standards are a prime example of issues that have, in the past, consumed enormous amounts of line staff time and often led to angry, hostile confrontation between wards and staff. Over the years there have been countless instances where wards have been

> confined to secure quarters for refusal to submit to a haircut. Further, it was not uncommon for wards to be refused release on parole until their hair length conformed to a Board member's personal grooming standard."
>
> "It can be logically assumed that such ward/staff conflict frequently resulted in incidents and encounters which required diversion of staff resources from higher priority institutional goals. Hair standards is just one of hundreds of issues brought to amiable closure because of WGP."

The major costs of WGP are, thus, best viewed as a reallocation of staff time. While effort spent on the WGP may at times reduce the time available for recreational, counseling, and report writing activities, the quality of these activities may be improved due to the WGP grievance resolutions. In fact, CYA staff report that since WGP was introduced, wards spend less of their counseling time (both group and individual) complaining about problems related to their confinement and more of their time working on treatment goals related to a successful parole experience.

A cash contribution of CYA not shown in the estimates of personnel and training costs is the budget for Independent Review. Administered by the American Arbitration Association, CYA budgeted $20,500 for the fiscal year 1976-1977. This figure assumes that roughly 1% of grievances filed are resolved at the Independent Review level, and includes fees of $100 per hearing for the administrative expenses of the American Arbitration Association and $75 per hearing for the expenses of the volunteer arbitrator.

WARD GRIEVANCE PROCEDURE
ESTIMATED PERSONNEL, TRAVEL AND TRAINING COSTS

7-1-75 to 6-30-76

1. Personal Services:

Director, CYA - 5%	$ 1,861
Project Director (Deputy Director, Parole & Institutions - 5%	1,718
Superintendents (10) Institutions - 15%	42,408
Superintendents (5) Camps - 15%	15,453
Project Director, S.P.A.C.E. (Halfway House) - 15%	3,663
Admin. Ward Rights Serv. - 20%	4,884
Ward Rights Specialist - 100%	19,620
Ward Rights Specialist - 25%	4,905
Institutional Coordinators (15) 30%	84,078
Institutional Training Officers (15) 10%	26,010
Ward Grievance Committee Members (164) 200 hours/year - 20%	462,970
Institutional Auditing Supervisors (50) - 8%	1,356
Zone Administrators (4) - 5%	5,129
Supervising Parole Agents (42) - 5%	39,237
Parole Specialists (42) - 10%	71,169
Parole Agent I (162) - 2%	49,767
Clerk Typist II (16) - 10%	12,499
Anticipated 8.5% salary increase effective 7/1/75	71,972
Total Personal Services	$ 918,699

Fringe Benefits

State Safety Members 20% x $905,896	183,740
State misc. members 19.1% x $12,499	2,387
TOTAL SALARIES & BENEFITS	$1,104,826

2. Travel

Estimated travel of Project Director, Institutional and Parole staff for arbitration, consultation and training (Per diem, car rental and training)	$ 24,200
Ward travel	425
TOTAL TRAVEL	$ 24,625

3. Training

These costs also include the implementation of WGP in the Department's five (5) forestry camps (Ben Lomond, Mt. Bullion, Pine Grove, Washington Ridge, Oak Glen), the Space Halfway House and parole services; on-going training expenses are expected to be considerably over.

Salaries Staff Trainees - 9 institutions x $2,904 (400 hrs. at $7.26 - $2,904)	$ 26,136
Staff Trainees - back-up (9 institutions x $2904 400 hrs. at $7.26 = $2904)	26,136
Staff Trainees - Parole 41 units x 2 sessions x $40/session	3,280
Supervisor Parole Agent Training - (4 zones x 8 meetings x $160/meeting	5,120
Staff Training, Superintendents (2 sessions x 15 participants x $1600/session)	3,200
Coordinators - 2 sessions x 15 participants x $2200/session	4,400
TOTAL TRAINING	$ 68,272

CHAPTER 8
EVALUATION

The CYA's evaluation of WGP investigated a wide range of topics including ward and staff attitudes and knowledge, compliance of the procedure to basic grievance principles, ward judgements regarding the fairness of the proceedings, and their satisfaction with the results. Clearly, the minimal information which an evaluation should provide is an account of the number and type of grievances being processed and their resolutions. Without this type of descriptive information, an understanding of the grievance procedure being studied would be severely limited. Beyond the basic descriptive data, however, a number of additional topic areas are relevant and can provide important information. The choice of specific topics to study should be determined by the evaluator's assessment of what aspects of program functioning and impact are important and are likely to require monitoring.

The choice of areas to evaluate is, thus, a decision which evaluators must make in light of the program's aims, likely effects, and resources available for assessment. Using the CYA's evaluation as a guide, the first section of this chapter describes a basic framework for conducting a grievance procedure evaluation. It will be assumed that the grievance procedure being evaluated is similar to that employed by the California Youth Authority, and includes such features as ward and staff participation in hearings, a series of levels for appeals, outside arbitration, stated time limits for responses, etc. Changes in specific aspects of the procedure will, of course, require specific corresponding changes in the evaluation, but the major classes of measures to be used are likely to be similar for most evaluations of grievance procedures. The second section of this chapter discusses a range of possible evaluation measures not considered by the CYA evaluation. Evaluators should consider the various topical areas of investigation in light of their program's goals and select those topics which they consider most relevant.

8.1 Basic Evaluation Measures and Design Alternatives

The collection of routine information about the operation of grievance procedures is obviously the first measurement of concern to an evaluation. Grievance records themselves provide the most direct insight into how the system is being used. They should be monitored to resolve a number of operational questions:

- Is the number of unresolved grievances satisfactorily low?
- Is the time to resolution within acceptable grounds?
- Do putatively resolved issues recur in later complaints?
- Is there any evidence that some individuals or subgroups receive inequitable grievance treatment?
- Do external factors (such as personnel) influence the equity of the system?

Initial analyses of grievance records can be efficiently carried out by ward grievance clerks or ward grievance preparation committees responsible for preparing grievance statements and maintaining a continuing audit of the number and disposition of complaints filed in the living unit. These records would then be submitted to the institutional Superintendent for the preparation of a comprehensive monthly audit for the whole institution. Institutional audits would then be transmitted to the state correctional authority for cross-institutional analysis.

This form of hierarchical analysis of grievance data is valuable for a number of reasons:

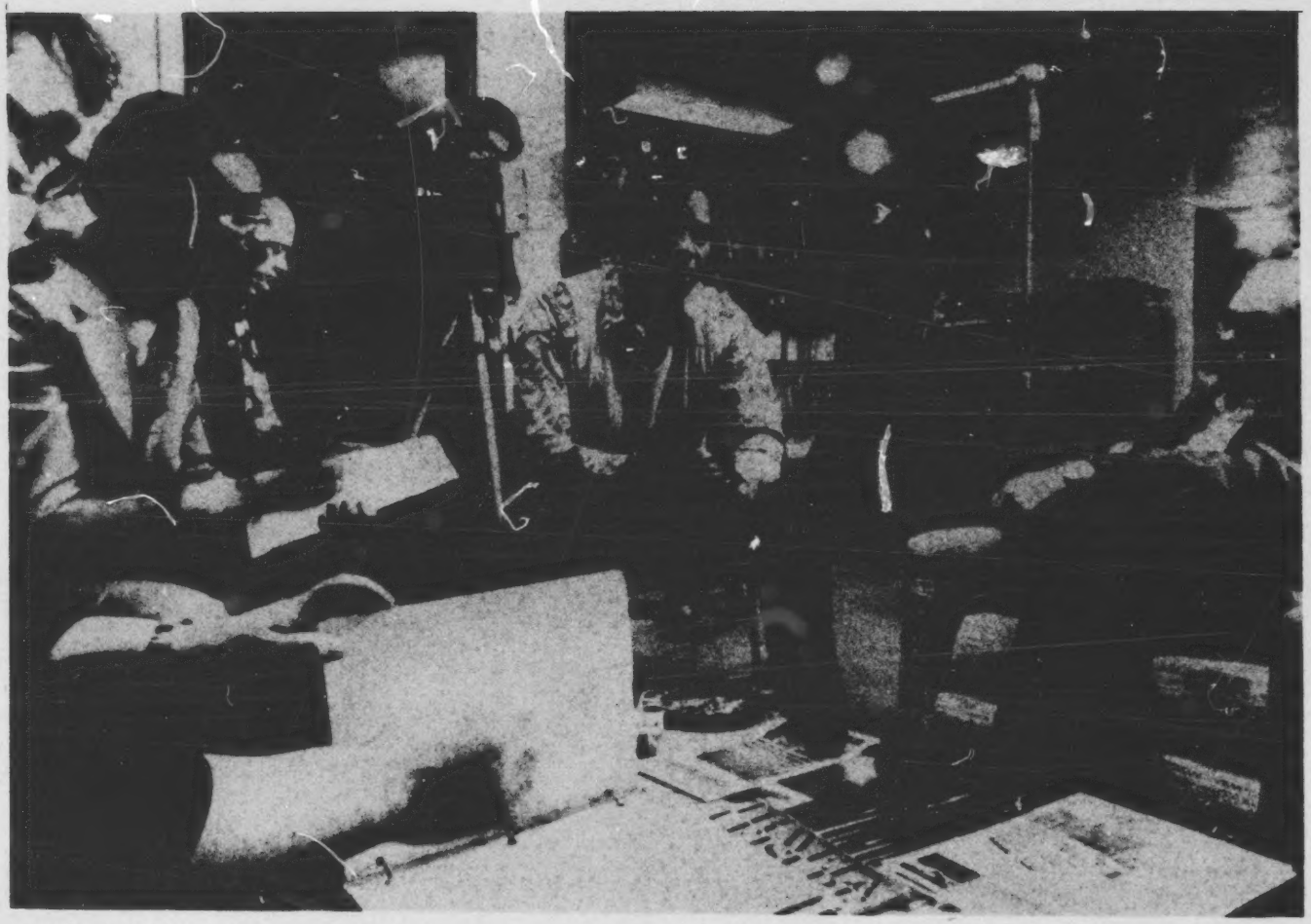
- Each institution has a current record of the functioning of its grievance procedure and can rapidly act to rectify problems such as substantial disparities between the number of grievances arising from different living units;
- Recurrent problems raised by wards in different living units can be rapidly exposed and actions

can be taken to address these widespread problems;

- Similarly, at the state level, recurrent problems can be exposed more readily;
- The economical nature of this form of sequential analysis is beneficial, and
- The experience gained by ward clerks and grievance preparation committees in monitoring the system and detecting problems in the functioning of the procedure is valuable.

In addition to this sequential analysis of grievance records, copies of all records should be submitted to evaluation researchers for a periodic detailed analysis of the system's functioning. This procedure also provides a check on the accuracy of the living unit and institutional audits of grievance records. If the number of grievances to be analyzed is substantial, computer analysis of grievance records is advisable. For each grievance a range of information should be coded including the grievant's institution, living unit, and demographic characteristics, topic of the grievance (derived from a coding system developed for the purpose), general type of grievance (personal, policy, staff, etc.) date of each action (filing, hearing, appeal, etc.), disposition of the grievance, etc. At intervals the research unit can report the analysis of the system both for the institutions separately and as a group.

In addition to the ongoing analysis of grievance records, the collection of attitudinal data is required to assess the views of wards and staff regarding the functioning of the system, and to pinpoint reasons for failures to function in line with principles. Attitude questionnaire results are difficult to interpret (and easy to misinterpret) unless some reference standard is available. The special situation of institutionalized offenders induces a number of biases which can be reflected as either positive or negative tendencies in responses to questions about attitude. The correctional setting generates both subtle and blatant pressures to "give the right answer," and some fraction of any respondent sample will attempt to psychoanalyze the test-constructor in order to provide the response he is most likely to consider desirable. This fraction may well be offset by another group under equally strong pressure to "give the wrong answer," in order to prove



California corrections officials and IMCR staff members in a simulated meditation session.

Photo by Tia Schneider Denenberg

their autonomy. All these externals make measurement of true attitudes difficult. A number of devices can be used, however, to minimize the error introduced by unrelated attitude biases.

The most direct of these is the use of a pretest (administered before the grievance procedure is discussed, if possible, but in any case at the earliest possible time) to provide at least a crude normative scale against which post-procedure attitudes can be assessed. Such a comparison is limited by the fact that attitudes change with the times, quite apart from any innovation in procedure. Two additional kinds of measurement can be suggested to resolve this problem. First, measure some attitudes which are not expected to be influenced by the grievance procedure. If these unrelated attitudes remain stable while the original ones respond in the predicted direction, some confidence is gained that the observed shift was not fortuitous. The second possibility is to measure another group of respondents, rather than another group of attitudes. (In practice there is no reason not to use both of these options together. In fact, doing so significantly enhances the power of the experimental design.) The second group of respondents may be drawn from institutions or living units not implementing the grievance procedure, if such are available. If the two groups are indistinguishable before institution of the grievance procedure, but differ after one of them becomes subject to it, confidence that the difference is due to the procedure is enhanced. If reasonably well-matched groups are not available in the correctional system, the simple before-after design used by the CYA may be preferable due to the limited gains in information possible from confounded control groups. This simpler design might also be necessary if the correctional system decides to institute a system-wide program for grievance processing, since no control groups would be available for comparisons.

Attitude questionnaires should be administered to as many inmates as budgets and local conditions will allow. In very large institutions a random sample of inmates may be sufficient, but the evaluator will wish to analyze subpopulations separately, and should accordingly construct the sample to ensure that the smallest interesting subgroup has enough cases to support analysis. The attitude measures assessed should include the two goal areas investigated by the CYA: first, comfort in filing, reasons for non-users' failure to file grievances, and wards' perceptions of staff support of the procedure; and second, perception of fairness of hearings, satisfaction with resolutions and implementation

of resolutions, the usefulness of the system, adequacy of staff training, and ways to improve the system. These attitudinal measures are a necessary supplement to the grievance records analyses since the system must not only be efficient in processing complaints but to have maximum effect, must also be judged to be useful, fair and effective by staff and wards.

Depending upon an institution's evaluation resources and interest in assessing grievance procedures, more complex designs are possible. For example, a number of different procedures could be implemented on a series of matched living units (involving changes in the use of hearings, types of appeals, amount of training in the use of the procedure). Comparisons among these units in the number and disposition of grievances and attitudes of wards could help to determine the most effective mechanism for the given correctional system. Given the effectiveness of the CYA program, however, and the doubtful availability of resources or motivation to conduct complex experimentation on a variety of experimental grievance procedures, it is probably advisable for most systems to adopt the method used by the CYA--namely, to establish specific system-wide principles for grievance procedures and request each institution to submit a proposal for a procedure consistent with the principles which also meets the special needs of the specific institution. Internal analyses based upon differences in procedures in similar institutions would then allow for some estimation of the impact of variations in grievance mechanisms, without requiring highly complex experimentation. Non-users should be asked questions to determine the cause for their lack of use of the system.

The third type of measure needed to assess the system's functioning is a questionnaire regarding ward knowledge of the grievance procedure principles, including how to file a grievance, time limits allowed, and other procedural rules. This questionnaire should be administered to a sample of wards after the program has been implemented and periodic readministration should occur in order to assess the general level of knowledge regarding the program.

In summary, evaluation of the functioning of the grievance procedure requires data on grievance reports, ward and staff attitudes, and ward knowledge of program procedures. In addition to these process measures, the impact of the grievance procedure on the correctional institution also requires evaluation. The CYA re-

searchers included a series of questions in staff interviews regarding their judgements of changes in ward-staff relations, ward-ward relations, job demands, etc. Wards were also asked to comment on whether they observed changes in interactions following the implementation of the grievance procedure. At the Youth Training School objective measures including staff turnover and disciplinary action were assessed in addition to the subjective interview measures.

Due largely to the limited time span of the evaluation, the CYA reported that there were no clear impacts of the grievance procedure on the social climate of the institutions or on related objective measures. Indeed, since a number of the impacts--for instance, violent protests--are a relatively rare occurrence, they are clearly poor measures of a program's short-term effects. Yet since these measures are important, future evaluations should accommodate longer measurement intervals in considering questions of institutional change. At the same time, it should be recognized that the need for grievance procedures as an alternative to litigation, as a mechanism to insure the provision of legitimate rights to inmates, and as a means of changing unwise policies, rectifying injustices, enhancing communication, and providing a safety valve for the expression of complaints which might otherwise be expressed in violent protest, may justify the program regardless of whether measureable changes in the social climates of the institutions are observed.

8.2 Additional Evaluative Goals and Measures

In addition to the basic measures of functioning and impact assessed by the CYA Research Division, a number of additional measures of both functioning and impact might be considered in future evaluations.

Additional Functioning Measures

An understanding of the functioning of the grievance procedure would be more complete if factors accounting for living unit differences were intensively evaluated. For example,

the performances of ward grievance clerks, grievance committee members, and grievance preparation committees (if any) should be assessed. To date, the CYA has not presented data related to variations in the effectiveness of these ward "officers" (e.g., as a function of demographic variables such as age or race). Since very substantial differences in the number of grievances filed have been observed between living units, it is reasonable to hypothesize that the availability and enthusiasm of grievance clerks and committee members may have a substantial influence on the level of participation in the grievance procedure. Factors influencing the efficient solicitation and processing of grievances by clerks could be investigated. Subsequently, an attempt could be made to teach skills to clerks and committee members whose living units participate in the grievance program at a substandard level. Other factors which may influence use of the grievance mechanism in specific living units such as negative staff attitudes or the emergence of ward opposition to the use of the grievance procedure, could be investigated in considerably more detail than they have been in the past. Experiences in the most successful and least successful living units could be contrasted and means of modifying attitudes inhibiting use of the system could be developed.

Another area of functioning which could benefit from an intensive analysis is the area of training procedures for staff. Since different institutions would be likely to use different training procedures (if the California Youth Authority model is adopted), an opportunity would be available to assess the efficacy of different approaches. These approaches could include group discussions, seminars, written descriptions, videotaped presentations, role playing, or combinations of various approaches. An analysis of training methods is likely to be very valuable given the results in the CYA institutions, in which staff members consistently reported that they were not adequately trained to operate the grievance system. Standardized questionnaires dealing with grievance procedures, training and knowledge of mediation techniques could be used throughout the system, and hopefully the most effective training techniques could be determined and then adopted system-wide.

Similarly, ward knowledge could be assessed in response to specific variations in teaching programs which could be instituted either between or within institutions. The CYA report demonstrated that levels of ward knowledge were often

not adequate to allow them to participate fully in the grievance program. Adequate instruction in methods of using the system and the general principles and rights associated with the program is clearly essential. A wide range of techniques is available for teaching wards how to participate in the grievance procedure: systematic variations of techniques in different living units may be advisable in the early stages of implementation to assess the relative efficacy of these approaches.

Additional Impact Measures

The CYA evaluation included measures of ward and staff perceptions of behavioral changes following the implementation of the grievance procedure (e.g., staff-ward relations). These perceptions, however, are likely to be biased due to the adversary relationship of wards and staff and the tendency of both groups to view the other with substantial suspicion. The few behavioral measures used by the CYA dealt with relatively extreme behaviors (e.g., staff turnover, disciplinary actions), and no interpretable differences were reported.

It is likely, however, that major changes in the social climate of the institution may very well occur following the development of a grievance procedure, but these changes may not be reported in attitudinal measures, and may not be sensitively measured by extreme measures such as disciplinary actions. At least four basic types of measures are available to fill this gap: independent observation of the behavior of wards and staff prior to and following the implementation of the grievance procedure, experimental manipulation of ward and staff behavior, socioeconomic measures of friendship patterns among wards or between wards and staff, and logs of staff-ward interactions and their content. Other measures are no doubt possible and may be explored by the researcher familiar with this form of measurement.*

Since these measurements require thoroughly trained researchers or clinicians, may imply a fairly costly evaluation effort, and may not directly contribute to the program monitoring function, they should not be considered essential aspects of the evaluation process. Nevertheless, investigations of this nature can make

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* For the range of possibilities currently used in the social sciences, see Webb et al., Unobtrusive Measures.

a valuable contribution to the state of knowledge regarding the social climate of institutions, and might be explored further by programs with sufficient research budgets or access to university resources.

Evaluation of Secondary Goals

A number of additional goals of a grievance program could be assessed. Three will be discussed here: (1) the degree to which wards develop new skills in verbal problem solving and bureaucracy manipulation; (2) the level of ward awareness of changes brought about by the grievance system in institutional and departmental policies; and (3) the degree to which specific policy changes deriving from grievance resolutions have an impact on attitudes and the social environment.

It can be argued that the grievance system serves as a logical adjunct to any rehabilitative strategy. The grievance mechanism provides a means for wards to use verbal problem-solving techniques and to practice manipulating institutions (almost the essence of successful middle-class behavior). Presumably use of the grievance procedures should increase the inmate's skills in this type of behavior, his tendency to use this sort of approach in the outside world, and also increase his perception of control of the environment. A range of measures can be devised to assess these various outcomes. For example, questionnaires can be devised to assess abilities in and predilections toward the use of verbal channels of problem-solving. Inmates could also be tested in role-playing situations before and after the implementation of the program to see if changes have occurred in tendencies to use logical argumentation, persuasion, etc., vs. withdrawal, threatening, etc. Similarly measures of perception of control could be administered. An additional outcome which might be anticipated involves the inmate's increased perception of problems experienced by bureaucracies in arriving at decisions. This should be particularly true for clerks and committee members actively involved in the grievance process. To the extent that persistence in filing grievances results in changes in policies opposed by inmates, inmates may learn that bureaucracies can indeed be effectively manipulated with sufficient effort.

An additional goal which might be worthwhile to assess is the level of ward awareness of changes brought about by the grievance system in institutional and departmental policies. The credibility of the grievance procedure is presumably partially dependent upon the perception that the procedure has a "real" impact on institutional policy. Due to the transient nature of the inmate population it is possible that even dramatic changes brought about by the resolution of grievances (for instance, changes in regulations regarding personal appearance) might not be attributed to the procedure shortly after their implementation. New wards admitted to the system would be likely to take the more "liberal" procedures for granted and not realize their origin. If awareness of changes brought about by the grievance procedure were found to be low, it might be worthwhile to establish an educational program to enhance awareness of the policy changes derived from the procedure.

In a similar vein, an additional aspect of the program which could be evaluated is the impact on the social climate and attitudes of specific policy changes. Since specific policy changes could not be predicted a priori, a range of measures should be used in the pre-program questionnaires which would be relevant to a range of policies. Then, upon the occurrence of policy changes, additional measures could be assessed to determine the impact of specific policy changes.

Again, the number and nature of evaluation measures selected will be entirely dependent on the goals of the particular procedure and the extent of available evaluation resources. Though this section has suggested a range of behavioral measures, these should be considered as supplements--not replacements--for a comprehensive information system designed simply to provide correctional administrators with continuous feedback on the accessibility, utility, and efficiency of the system in resolving inmate grievances.

APPENDIX A

DEFINITION OF GRIEVANCE PRINCIPLES

(Distributed by the CYA guiding this discussion explains each of the principles for WGP introduced in Chapter 2.)

DEFINITION OF GRIEVANCE PROCEDURE PRINCIPLES

1. There shall be participation by elected wards and by staff in the design, development, and operation of the Grievance Procedure adopted in each program unit.

   Rationale

   Principle number one is simply the base upon which participation is mandated. It is this principle which makes the Youth Authority's system unique from most other Grievance Procedures in that it grants full participation by wards. Appropos of the premises, this principle gives them "equal voice and vote."

2. A ward with an emergency grievance or problem shall have available a course of action which can provide redress within a relatively immediate time.

   Rationale

   In any situation there can be emergencies, and this principle in operation simply states that a procedure must have a way in which a ward with an emergency problem can bypass the normal mechanics and speed up the time in which it takes him to get a decision. Examples include: threatened assault; a day pass denial the day before; a last minute reversal of a decision; immediate physical danger, etc.

3. The procedure must provide for levels of review, which shall be kept to a minimum. These levels, ideally, should coincide with the major decision-making levels

of the program unit's organization. Any party to a grievance, ward or staff, may appeal a decision.

Rationale

In order to provide a timely and quick resolution, the levels of review for a grievance must be kept to a minimum or the procedure drags on and it is no longer timely or final. "Justice delayed is Justice denied". Regardless of the supervisory positions within any program unit, there are levels which can be seen as major decision-making levels. Generally, there are fewer of these than there are supervisory classes and these are the levels of review. In other cases, some of these decision-making levels could be combined into one level such as the Superintendent and Assistant Superintendent being combined into the office of the Superintendent, i.e., two levels combined into one decision-making level, neither's decision appealable to the other. In addition, the principle protects staff rights and allows them to appeal, including independent review, any decision made in the Grievance Procedure. It does not allow staff to initiate a grievance, only request review.

4. At some level, a full hearing must be conducted and all parties to the grievance must be given an opportunity to be present and to participate in said hearing.

Rationale

This is simply a "full and fair hearing" clause which says that at some point in the total procedure, everyone with their representatives has the right to sit down together, discuss, confront, thrash out, take a look at all facets of the grievance, as well as all possible resolutions so that both viewpoints have full airing and are public knowledge. Where an informal preliminary hearing is held at which the grievance may be resolved, staff must include the ward, his representative, and the grievance clerk or this principle is violated. Even then the ward has the right to deny an informal hearing without prejudicing his case.

5. A ward shall be entitled to select a representative from among other wards, staff, or volunteers regularly participating in the program unit. Said representatives shall be entitled to attend and participate in any informal conferences, hearings or reviews in which the ward participates.

Rationale

Wards are not always articulate and have the right to representation. Since many systems use informal resolution along with formal, the concept of representation is applied to that also by this principle. Representation is also necessary in class actions where several wards bring the grievance, as well as in situations where for various reasons the grievant or group of grievants wish to remain anonymous and have a representative plead their case. The implications of putting this into operation revolve around from what group shall the ward be limited in picking his representative, and secondly, if wards can have representation, what about staff.

6. Reasonably brief time limits shall be established for the receipt of said responses and for any action which must be taken to put a response into effect. All responses to a written grievance shall be in writing with reasons for action taken. Lack of written response or failure to complete action within the required time periods shall entitle the ward to proceed to the next level of review.

Rationale

The premises state that there must be speedy resolution. This requires that those people participating in developing and operating the procedure establish time limits and time frames both for reaching the resolution, as well as time limits and time frames for putting that resolution into effect. A time limit is necessary after the resolution is reached in that if there is none, then in effect a resolution never has to be put into effect and the ward has been denied an appeal or review at the next level.

Additionally, this principle eliminates blocking of the system or delaying resolution by not giving a written

response in that it automatically provides the grievant with the recourse of going to the next highest level of review if the response is not received within the specified time frame. Finally, by documenting all grievances and their responses, it provides management with a built-in way to monitor and audit their system.

7. The final review shall be an independent review by a party or parties outside the Youth Authority.

Rationale

One of the major problems with a Grievance Procedure is establishing credibility of that system with the wards. They are used to dealing with staff and may have a certain amount of distrust of staff and authority. Therefore, one reason for having an independent review or a procedure for review which is outside the correctional system, is in effect to have someone who has no correctional ax to grind, reports to no Superintendent or Director, and is a completely independent agent, hold an objective hearing and in his mind determine what is a reasonable solution to a problem. The other reason for the independent final review is that knowing that this is the final level of review, it imposes upon other people at lower levels the task of being cooperative and reasonable and the responsibility of working very hard to mediate and arrive at a resolution of the problem prior to the final outside review.

8. The Grievance Procedure itself shall be used to determine whether a specific complaint falls within the procedure.

Rationale

In the definition, certain things have been spelled out as being not submissible to the Grievance Procedure. It is anticipated that other things may occur. Such things as implementation of Industrial Safety standards, or some emergency security action are examples. These affect wards and it is necessary to find a way other than simply unilateral administrative decree to decide whether or not the action in question is a legitimate grievance and therefore submissible to the Grievance Procedure. This

principle does not prohibit staff from taking emergency immediate action. It does, however, allow wards to question whether or not that action is a grievance, and if it is determined a grievance, it allows the wards a way to have it reviewed and possibly modified, changed, or thrown out.

9. No reprisals shall be taken against anyone using or participating in the Grievance Procedure.

Rationale

This principle is rather self-evident in terms of intent. People cannot raise questions, ask for review of decisions, or question interpretations or applications of policy by staff if they can then be subjected to reprisal for having used the system and raised the question. Wards need to be protected from having day passes denied, parole not recommended, privileges cancelled or simply threatened with reprisal if they use the system. In operation, staff must decide what general instructions to give wards when they believe reprisal has occurred. Generally, another grievance is filed, but it could be considered as grounds for filing an emergency grievance.

10. There shall be monitoring and elevation of all procedures, their operation and their decisions.

Rationale

Any system needs to be monitored and evaluated. This monitoring and evaluation is two-fold. First, managers need to audit their program to be sure it is functioning Properly. There also needs to be, outside the system, some type of research evaluation to provide all concerned with a more objective evaluation of the problems, successes, failures, and breakdowns of the system. This would evaluate functional breakdown, i.e., management of the system (inside) vs. compliance with the principles (outside).

11. Grievances about employees that may result in punitive action will be referred directly to the Superintendent for investigation and prompt written report to all concerned parties.

Rationale

In order to protect all concerned, particularly the employee, this principle brings potential punitive action directly and immediately to the only person who has authority to initiate such action. It also avoids the morale problem which would follow a staff member feeling he is being "tried" by wards. When punitive action is a possibility, the investigation needs to be swift, thorough and objective. A grievance committee does not have that capability or function. Additionally, this protects staff from slander and may protect a ward from falsely accusing a staff member of some action. Since all parties received a written response, this principle does not violate other principles, but only provides quick recourse.

APPENDIX B

KARL HOLTON SCHOOL GRIEVANCE PROCEDURE

(Prepared by the CYA, this material supports the discussion in Chapter 3, illustrating the specific application of WGP in one CYA institution and presenting guidelines for the election of Grievance Clerks and Grievance Committee members.)

KARL HOLTON SCHOOL GRIEVANCE PROCEDURE

Following is a general discription of the procedure as it now operates at Karl Holton School. Although there may be minor differences from hall to hall in, for example; who serves as chairman, what staff member the ward clerk originally routes the grievance to, how many people sit on the committee; the basic structure and mechanism is the same throughout.

The Grievance Procedure is a formal method to resolve a problem. It does not replace informal channels and all wards are advised to attempt informal resolution prior to filing a grievance. DDMS actions shall be handled through the appeal process, not the Grievance Procedure.

1. Organization

   The organizational unit upon which the Grievance Procedure will function is either the 50-bed hall or the 100-bed living unit. The 50-bed hall is preferred.

2. Filing a Grievance

   A. The initial contact point for a ward filing a grievance will be a member of the ward grievance preparation committee, or the ward grievance clerk. Wards will submit their grievance to this person who will be responsible for insuring that the ward has attempted informal resolution. They will also assist the ward in preparing the grievance form.

      If for any reason a ward with a grievance feels uncomfortable in doing this, he may submit his grievance directly to any staff member on the hall. In that case,

that staff member will assume the responsibility outlined above.

B. If the grievance is of an extremely personal, confidential, or emergency nature, the ward should so inform the staff member on duty or the grievance clerk that he wants to see the Superintendent, Assistant Superintendent, or Executive Officer immediately. Grievances of this nature shall be handled within a one-work day or 24-hour period.

C. The staff or the ward will talk with the grievant about his grievance, counselling him as to its relative merits and help him to prepare the necessary forms and arrange for his representative. This counselling shall include cautioning the ward that he must be reasonable and responsible in his behavior and should not willfully use the Grievance Procedure to slander a staff or perjure himself. This may occur before or after the ward fills out the grievance form.

D. If the counselling results in the ward dropping his grievance, it should be noted on the grievance form and kept on file. If the ward wishes his grievance processed, it shall be dated when completed and routed to the grievance committee.

3. Representation

Wards at Karl Holton School shall be allowed to pick their representatives from among any wards at Karl Holton School, staff employed at Karl Holton School, or volunteers who regularly participate in the program.

4. Grievance Committee

Each unit or hall shall have either a ward preparation committee or a clerk and deputy clerk.

A. The ward preparation committee shall be composed of at least three wards and an alternate from the hall. These

wards shall be selected according to the selection process described below. This committee may elect from among themselves one ward to serve as a clerk and another ward to serve as a deputy clerk.

If the staff and wards establishing and operating the procedure on any hall choose to not have a grievance preparation committee, they will use the same selection process and eligibility criteria, electing from among the ward population a clerk and deputy clerk.

The Treatment Team Supervisor is responsible to see that he has at all times all offices or positions on the committee filled. When a clerk or committee member is referred to parole, the deputy clerk or alternate moves up and a new ward shall be elected within one week. Although this is the responsibility of the Treatment Team Supervisor, he may delegate this maintenance responsibility to the Senior Youth Counselor or Social Worker.

At any time for purpose of conducting formal business, all members of the preparation committee and the alternate or the clerk and deputy clerk are absent, the Treatment Team Supervisor shall appoint another ward or wards to act in that capacity. This should only be done in temporary or emergency situations only.

B. Selection Process

(1) Criteria

Young man must be able to read and write at the fifth grade level.

He must have 60 days already in the program and be at least 60 days from going to Board for referral to parole.

He must be able to present himself in an adult, responsible manner and be able to verbally communicate with all wards and staff. (This criteria is one wards have requested and is used by them to make a judgment at election time.)

He must have acceptable status in the program. Acceptable status is defined as 85% level of efficiency in the four major BCU areas for the past four weeks.

(2) Process

Halls may use anyone of three systems for electing wards to grievance preparation committee and clerk jobs. They are as follows:

a. Have all wards who are eligible, meet the criteria and are interested in the job apply for it as any other hall job. Then the grievance committee with or without the preparation committee will interview and screen these candidates, arriving at a slate of sufficient numbers for wards on the hall to choose. Then conduct an election by secret ballot with all wards and staff on the hall voting. The election based on a simple majority. If for some reason no wards are holding office, then system #2 will be used to start.

b. If ethnic representation is an issue on the hall, it is suggested that each ethnic group be allowed to meet and nominate two people from its ethnic group who meet the criteria who they would like to run for office. This would be done whenever replacement is needed, be it a committee member, alternative, clerk, or deputy clerk. Following this nomination by the ethnic group, the voting would again be simple majority by secret ballot, however, the entire community of staff and wards would be allowed to vote.

In the case where the ethnic group cannot arrive at a solution or two nominees, the Treatment Team Supervisor may designate either one staff member to meet with that group and help them arrive at a nomination, or he may ask the rest of the grievance preparation committee or clerks to meet with the group to help them arrive at a nomination.

In this election system, the election is always by the total community, since any ward elected to the grievance preparation committee may eventually represent that entire hall as the grievance clerk at meetings with the Superintendent, in the hearing of formal grievances, and in the acceptance and preparation of grievances from individual wards.

c. The final procedure which might be used for election purposes is the simple democratic process using parlimentary procedure of having nominations from the floor and then a general election using a simple majority or the most votes received to elect the required number of wards.

d. Any additional election procedures or modifications to the above shall be submitted in writing to the Superintendent for prior approval.

(3) A ward will serve as a member of the grievance preparation committee or as a clerk until he is released, resigns, or is removed. Ideally, a ward will serve at least 3 months once elected. A ward may be removed from his office if he is transferred to another hall, parolled, escapes from the institution, or as a discretionary, but not automatic, disposition on a Level III DDMS, or by impeachment.

(4) Impeachment Procedure

If any staff or ward on the grievance committee feels a person is not doing his job, he may file a grievance asking for that ward's removal. Once that grievance is filed, it must go through the normal Grievance Procedure. The grievance committee must unanimously vote to remove that ward from office.

C. Membership

(1) Two wards from the grievance preparation committee or the clerk and deputy clerk.

(2) Any two staff members who are on duty the day the grievance is heard or those appointed to serve in this capacity fo the Treatment Team Supervisor.

(3) An additional staff member designated by the TTS to serve as a non-voting chairman whose responsibility it will be to chair the meeting, guide the discussion, mediate the grievance, and attempt to effect a reasonable resolution.

(4) Where indicated, due to the technical nature of the grievance or where the grievance involves a staff member or an application of institution policy with which the team is not conversant, an outside expert or consultant would be included as a participating, but not voting member, of the grievance committee. Examples of this at Karl Holton might be where the grievance deals with some of the technicalities of Behavior Modification and the Supervisor of Special Treatment is needed. Other examples would be if it involves educational philosophy, then the Supervisor of Education would be involved, or if the grievance involves something dealing with nighttime security or other security policies, the Head Group Supervisor would be involved.

Any and all staff members who may be personally involved in the grievance are exempted from participating in this decision making meeting.

5. Time Limits In Handling A Grievance

A. A ward must file his grievance or initiate action within 72 hours of the incident causing the grievance.

B. From the time a ward tells the grievance preparation committee or clerk he has a grievance, there is a 72-hour time maximum available for preparation.

C. From the time the grievance is officially routed to the ward/staff grievance committee, they have seven working days in which to hold a hearing or effect informal resolution. Within that period of time they must provide the ward with written response.

D. If the ward is dissatisfied with the response of the grievance committee on the hall and he appeals the decision to the office of the Superintendent, that office has three working days in which to respond in writing to the grievant.

E. The total number of working days from the time the grievance is given to the hall committee until the Superintendent responds must not exceed eleven working days. (One day allowed for routing of grievance)

F. If any of the above time limits are not met or the response is not received within the number of working days, the ward may automatically request that his grievance go to the next highest level.

G. Any of the above time limits may be extended by agreement of the grievant and the level of review before which he is appearing. The grievant must be told when the grievance will be heard.

6. Levels of Review And Schedule

The Karl Holton Grievance Procedure provides three levels of review.

A. The first level is the ward/staff grievance committee described above.

(1) Preparation committee meets once a week or as convened by the clerk.

(2) Ward/staff grievance committee meets once a week or as convened by the chairman.

B. The second level of review is at the office of the Superintendent when the matter relates to institutional policy and at the level of the Director of the Youth Authority if the grievance relates to departmental policy.

C. The final level of review is review by an outside arbitrator from the American Arbitration Association. Any Level II decision made by either the office of the Superintendent or the Director may be appealed to Arbitration. Arbitration hearings are convened as requested.

7. Arbitration

A. How Requested

If a ward decides he wishes outside arbitration, he so notify the grievance clerk who will contact the office of the Superintendent immediately. It shall be the responsibility of the Superintendent to arrange the hearing.

B. Arbitration Hearing

In most cases, the arbitration hearing will be scheduled within 14 days of the request for that hearing. However, since our arbitrators are volunteers and must fit it into their regular schedule, it may at times be longer.

The arbitration hearing and various peoples' responsibilities to it shall be as follows:

(1) The arbitration hearing will be conducted by the arbitrator as the chairman, with two other members sitting with him as a 3-man panel.

(2) The second member shall be a person selected by the grievant, i.e. the ward, and may be any member of the staff, any ward, or any other volunteer regularly participating in the program. The person selected by the ward to sit on the panel with the arbitrator should be someone who is knowledgeable as to how wards generally feel and how the specific ward with the grievance feels about his particular grievance. This person's responsibility shall be to help the arbitrator make his decision by generally giving him input and knowledge as to the ward's point of view.

(3) The third member of the panel shall be someone selected by the Superintendent or Director to represent his viewpoint to the arbitrator. This person should be knowledgeable in the particular policy or procedure under discussion, the rationale for its existence, and should be prepared to represent the administration's viewpoint to the arbitrator.

The hearing will then be conducted with the

arbitrator as chairman, two members of his panel, the grievant and his representative, if desired, and the Superintendent or Director and/or his representative, if desired.

Generally, the arbitration hearing should be as informal as possible. The basic purpose is to bring out all of the facts in the situation and provide thorough discussion about the problem. Each side, generally with the grievant going first, will make some type of an opening statement. After that, discussion will be held so that it can be very clear for all concerned what the two parties agree to and what they disagree to, thereby clearly defining the specific problem. Ideally, the parties would meet before the hearing and discuss the issue and be able to present their agreements and disagreements. Following that, each party will be asked to present any witnesses that they wish to call to give other data or input. After that, each party to the grievance may make a closing statement. At that point, the arbitrator will recess the hearing.

After recess, the arbitrator with the two panel members, will privately discuss the siutation to the point where they can come back and announce to the parties involved their advisory recommendation. The hearing will then be officially adjourned. The arbitrator is responsible for sending the written recommendation to the Superintendent or Director within about five work days.

To stress the point, arbitration is <u>advisory</u> and is not binding. It is a recommendation which is given to either the Superintendent or the Director. They are free agents and can either follow the advice, reject the advice, or whatever.

The Superintendent or the Director shall provide the grievant his written decision within five working days. This shall contain his reasons for either accepting or rejecting the advisory arbitration.

8. Informal Review and Resolution

At times teams may wish to establish a system to provide an informal preliminary review of a ward's grievance. Research has already demonstrated that there is a direct correlation between dissatisfaction with the system and informal resolution. This has often been due to the fact that wards have felt pressured, coerced, or talked into a resolution. At other times, this may be that although the ward is satisfied with the resolution, he does not feel he has had his "day in court." In addition, wards serving on the committee often feel let down in that though elected to a job, there is no work.

However, since it seems informal systems are spontaneously created due to work load and the fact that many wards file a grievance in the "heat of passion" and do not attempt informal resolution themselves, guidelines for establishing an informal preliminary review are as follows:

A. When such a system exists there shall be no change in the time limits and the preliminary review shall be conducted during the seven working days the team has allotted for dealing with the grievance.

B. When used, the clerk will be instructed as to what staff member to give the grievance to for review.

C. That staff member will have the responsibility of scheduling a conference with the ward who filed the grievance. At that conference, his representative, if desired, and the clerk shall be present for the entire discussion of the matter.

D. The ward who filed the grievance may, if he desires, refuse the informal review, asking only for the formal review. When he elects this option, his formal review shall be conducted and his denial for informal discussion shall not prejudice his situation.

E. If the grievance is resolved at this level, information about that must be noted on the grievance form, the form dated, and returned to the clerk for processing.

F. If the grievance cannot be handled informally or to

the grievant's satisfaction, the grievance committee shall hold a full hearing within the allotted time.

G. This procedure will be used only with grievances relating to an individual problem and not used with grievances relating to hall, institution, or departmental policy changes. For example, grievances dealing with loss of a room, loss of a job, a classroom assignment, loss of a program privilege, are suitable sorts of grievances which might be handled in this fashion.

H. In no way does using an informal preliminary review violate the ward's rights to appeal nor his rights to a written response within the prescribed time limits of this procedure.

The spirit of the Grievance Procedure is a fair hearing with speedy resolution of the problem. This informal review or resolution system is to be used in that spirit and as indicated above, as best suited to those individualized kinds of problems which often require a phone call, the verification of a record, discussion of a problem with someone who does not attend grievance hearings, etc. Use of any kind of a procedure of this nature must be watched judiciously.

9. Relationship of Grievance Committee to Treatment Team

Grievance committees will get grievances dealing with hall policy changes. Simple referral to the team places the treatment team in the position of having absolute veto power. Staff must attempt to mold our treatment team system in which the team is delegated the responsibility for hall policy with the grievance system which gives the ward the right to file a grievance and have a hearing. When a grievance dealing with hall policy is to be heard, a staff member with the authority to mediate and change policy shall sit on the committee. If that is not possible, or the matter needs full team discussion, these guidelines will be followed:

A. Grievance committees shall not automatically refer matters to the treatment team. The hearing shall

attempt to effect a resolution to the problem agreeable to the grievant and the committee. If not, then the committee must make a recommendation.

B. Lack of a recommendation authorizes the ward to appeal immediately to the next level.

C. In order to protect the wards' rights, this recommendation must be discussed with the team and the grievant given a written response within seven work days.

D. When the team discusses that recommendation, a staff member of the grievance committee will be included in the discussion. The grievant may be, at his pleasure. If the decision of the team is unsatisfactory or late, the grievant automatically has the option to appeal to the next level.

The above guidelines also apply when a matter is referred to large group when the team has specified in advance that the large group is the decision making body.

10. Conducting Level I Hearings

Level I hearings should be conducted as informally as possible with the committee meeting with the ward and his representative. If there is a staff member against whom the grievance is filed, he should be present, and the chairman shall attempt to conduct the meeting in as non-adversary a manner as possible. Attempts at informal review should have helped at least clarify the facts, desensitize the grievant, and drain off some of the hostility. Also, it should have verified in a simple investigatory interview way, that something in fact did occur so that you are not faced with a situation of a ward attempting willfully to slander a staff member.

The grievance committee must hold a hearing in a manner that the ward filing the grievance has ample time and assistance to present his side of the picture and the facts as he sees them. It is recognized that at times his hearing may be very short and may include immediate resolution. The grievant and his representative may be dismissed from the hearing when the committee feels

they have ample facts and are ready to discuss the matter in private. Following that discussion, the grievant ideally should be called back to be informed of the resolution. If however, for some reason this is not possible at that point, the grievance committee chairman and the grievance committee clerk are responsible to see that they sit down with the young man as soon as possible and inform him of the resolution.

If a committee convenes a hearing and in questioning the ward finds that he really did not attempt informal resolution or made what the committee feels is a poor effort at it, they still must continue ahead and hold a hearing, and not discontinue the hearing or throw out the grievance until he attempts informal resolution. The lack or poor attempt of his informal resolution should be handled as a separate piece of behavior which the grievance clerk may wish to counsel the ward about. The valued judgement of whether or not informal resolution has or has not been effected is in the eye of the grievant, not the staff.

At times the grievance committee may be holding hearings dealing with institutional policy or departmental policy. The question then arises whether or not the committee should hold a hearing. Policy at Karl Holton School is that they shall hold a full and fair hearing for the purpose of giving the ward a full and complete opportunity to express himself. In addition to that, there are three items or matters which either the Superintendent or the Director in reviewing a grievance on policy will need to know prior to making their decision. They are as follows.

A. To collect data from the ward filing the grievance as to why he believes the policy is unreasonable, as well as to explain to him some of the rationale for the policy. (The TTS should be familiar with these.)

B. To determine as precisely as possible what actual resolution of the grievance the ward considers reasonable. Many times in addition to what the ward considers a reasonable resolution, it also needs to be clarified how much additional responsibility the ward or wards are willing to assume to effect that

reasonable resolution.

C. The grievance committee itself should make a recommendation to the next level of review appropos of their feeling about the grievance and the recommended resolution. This, in effect, is a recommendation of the grievance committee to the next level as to what action they think should be taken, or in effect what action they would take if they had the authority.

11. Processing A Grievance

When a ward files a grievance, the grievance form shall be made up in duplicate. The clerk is responsible to see that the ward does, in effect, recommend some resolution to his problem on the form.

The original of the grievance form shall then be filed with the hall grievance committee for processing. The carbon copy shall be filed in the grievance clerk's book for his record keeping purposes. For record keeping purposes, the clerk may wish to number all grievances sequentially so that he may at any time know if any are missing, lost, or not being processed promptly.

It is extremely critical that the clerk date and sign the form at each level of the process.

After some resolution of the grievance has been made, either informally or at a hall committee hearing the ward shall be informed verbally of the resolution. In addition, the clerk should sit down with him, go over the written form and the written resolution, and give him the opportunity to date and complete the last question which deals with whether or not the ward wishes to appeal the decision to the office of the Superintendent.

After the decision of whether or not to appeal to the Superintendent has been made and yes or no has been checked, the form shall be routed to the Superintendent's office. If a decision needs to be made at that level, it will be made.

The Superintendent's Secretary shall be responsible for making the necessary copies of the grievance, as well

as the necessary copies of any response required from the office of the Superintendent, and they will be routed back as follows.

A. Originals to the grievant.

B. One copy of everything to the clerk.

C. One copy kept in the Superintendent's grievance folder.

When the clerk receives his copy back, he should ascertain with the grievant to make sure he received his, and then take his completed form, with or without attachments and responses from the Superintendent and file them in his official grievance record book. At this point, he should purge the carbon copy he kept, which in effect let him know that a grievance was in process. By filing the completed copy and throwing away the carbon, he has a record that the process on that grievance is complete, and nothing further is pending.

At the time a grievance is appealed to the Superintendent's office and a response required by him, the copy going back to the grievant shall have an attachment to it which also informs him of his right to appeal that decision to outside arbitration. This form also gives the time limits and instructions.

12. Special Provisions

A. At times a ward may have filed a grievance and before final resolution is made, been parolled, transferred, etc. In cases such as this, it shall be up to the grievance preparation committee or the clerk and deputy clerk on that hall to decide whether or not the grievance should be processed or be dropped. A general guideline is that if the grievance is an individual problem, it should be dropped. If the grievance deals with a policy issue affecting other wards, it should be processed.

If it is continued on, the clerk should so notify the chairman of the grievance committee. If it is

dropped, it should be marked dropped, and routed to the Superintendent's office for processing and filing.

B. It should be perfectly clear that under no circumstances shall any reprisals, punishment, or anything negative happen to any ward who makes use of the Grievance Procedure. In addition to that, the fact that the ward has used the Grievance Procedure and has in fact filed grievances, regardless of what they are about, is not to appear anywhere in his permanent file, nor will it appear anywhere or be noted in any report presented to the Youth Authority Board. This is a selective prescription and does not prevent staff from giving wards commendation reports for their responsible participation as a grievance clerk or as a member of the grievance committee. The intent of this paragraph is only to provide further protections to wards under the reprisal principle.

C. At times there may be indications on the hall or throughout the institution that a change in the procedure is necessary. If the change applies only to how a hall grievance committee is functioning, then regardless of the source of that suggestion the system may be revised by a simple majority vote of all members of the hall grievance committee and concurrence of the Superintendent.

If the change involves institution-wide problem or a change in an institution-wide procedure, then the grievance committee should initiate a grievance form with the problem stated and their recommended resolution to the problem and route it to the office of the Superintendent. It will then be the responsibility of the Superintendent to consider the grievance and get input from all other grievance committees as to the modification of the system. As a general principle, if the modification is in line with the principles and approved by a simple majority vote of all committees, it will become institutional policy.

13. Auditing

The grievance clerk should audit his book once a week. This may depend on the flow of business, but once a

week should be a minimum. He can tell at any time what grievances have been completed and what grievances are outstanding.

Every other wekk, the Treatment Team Supervisor shall sit down with his grievance clerks and audit the book to check for overdue grievances, grievances where no response has been received, time limits, or grievances which said an action would be taken which has not been put into effect. This is a very simple auditing system, but it is the basic minimum required at Karl Holton School in terms of maintaining that the system is functioning, grievances are not being lost, and that responses and resolutions are being given and put into effect.

APPENDIX C

DISCUSSION OF SPECIAL PROBLEM AREAS

(Prepared by the CYA to summarize some of the lessons learned through experience with WGP at the Karl Horton School.)

DISCUSSION OF SPECIAL PROBLEM AREAS

The Karl Holton experience with Grievance Procedures highlights many special problem areas which anyone dealing with a Grievance Procedure needs to be concerned about. These problems can crop up at any time and if not handled, can create havoc with the system that has been functioning smoothly for some time. Therefore, some of the more significant problem areas will be pointed out and a brief discussion given.

For some of them there is no procedural solution, but only a matter of examining one's attitude and taking a stance. However, recognizing these, staff who have a Grievance Procedure may look for some of these problems if the procedure begins to break down. Staff responsible for implementing new procedures can possibly learn from this experience and thereby prevent problems.

A. Adjudication versus Resolution

A major problem involves staff who compare the Grievance Procedure with DDMS. Staff are then "hooked" into the belief that the procedure is adjudicating guilt and innocence of staff. It's as if "staff have DDMS, wards have the Grievance Procedure"; they become equated processes. Staff feel they are not going to have charges filed against them. Although this is to be expected, orientation and training do help. Without it, the anxiety remains, the procedure and its use by wards is discouraged, most of the time implicitly, and credibility never seems to occur. Living with it and waiting until one establishes some kind of a "track record" is useful. Also give examples and constantly point out that in a Grievance situation you oftentimes are faced with a problem to which there

are two different viewpoints. They are simply that, strictly two different neutral viewpoints, neither right, neither wrong, no one guilty, no one innocent.

Oftentimes, this problems is compounded in that wards, whey they first get a Greivance Procedure, are impressed with its "power". They begin making demands, threats, and implying or stating specifically that if they don't get their way, they're going to file a grievance. Therefore, education with wards is equally critical so that they recognize their responsibility to be reasonable and not through threats, tread on the fears and anxieties of staff, thereby pushing staff into a rather untenable uptight position.

B. Apprehensions About What Grievances Mean

Related to the first problem, but different since it permeates all levels of staff, particularly administrators, is what is the real meaning of grievances. For years, staff culture has communicated that filing of grievances for line staff is a "no-no" and something that shouldn't done. Also, the staff culture has communicated that there is something wrong with an administrator, i.e., a Superintendent, who receives grievances from employees. This is often communicated as a negative thing and a symptom of troubles and poor staff morale. This attitude has carried over in some respects to the ward Grievance Procedure and effects not only how staff feel and react, but what kind of permission or lack of permission to use the system they communicate to wards. Its credibility and the status of those using it are effected. All the Karl Holton experience can do is point out the problem so that others may try and deal with it prior to implementation.

C. Informal Resolution

Informal resolution can be a problem if the guidelines already spelled out are not followed. Theoretically, it should not be used, but work load and good intentions automatically create it. People in legitimate haste to resolve a problem, conduct an interview in a fashion

in which the ward feels threatened or pressured. One has to remember that filing a grievance is a relatively new experience for wards; talking to wards about problems is no new experience for staff. Intentions can be misinterpreted and staff attempting to explain policy, can sound awfully arbitrary and unyielding.

Informal review, where it resolves the problem, meets the basic purpose of a speedy resolution to a problem. However, it must be approached with caution. It should not be used at all until after credibility of the system has been established. Research data shows if not done properly, dissatisfaction with resolutions is directly proportional to conducting informal hearings and satisfaction with resolutions is directly proportional to conducting formal hearings.

Remember, staff will attempt informal resolution; it does not seem an administrator can legislate it away. Be prepared.

If used, the Superintendent should audit. It's suggested to select, at random, grievances settled informally and personally interview the ward to see if he's satisfied. One out of five suggested as a minimum.

D. Established Credibility

Obviously, establishing credibility of the system is a problem, particularly with wards, but also as discussed above, with staff. It appears that regardless of what you do, you will always have some wards who fear the system and will not use it.

The two most critical aspects of making the system work and establishing credibility with wards are first, having a well trained grievance clerk who knows his duties and responsibilities. The second is having staff trained and over their anxieties to the point that they implicitly in the way they conduct themselves, communicate with wards, talk about Grievance Procedures, and even at times encourage wards to file grievances, communicate to the population that its "OK with us for you to use the system -- we endorse it." Orient staff to be aware of

the problem. Encourage them to express and explore their feelings about the procedure. After a procedure is implemented and grievances have been handled, there will be data to present to people and credibility is easier to establish.

E. Management Stance

There are particularly critical things which management must be aware of in handling grievances. Any administrator or supervisor who has the responsibility for making decisions faces several dilemmas. Some of the major ones are highlighted below.

(1) Do you believe that you automatically support staff, regardless of the fact that you see that their decision was not the best one that could be made? Often, we tend to rationalize this, and in counselling with wards, attempt to work with them to understand the stressful conditions under which the decision was made or the viewpoint from which the staff was operating. We often use this "casework approach" to seduce the ward into yielding, in that we imply that he, the "captive," ought to acquiesce to the "captor" since it was only a human error and mistakes do happen, and it more than likely will not occur again.

(2) How do you feel when a decision which you have made and which you are sure is reasonable, rational, and objective, is appealed by either a ward or a staff, and he succinctly points out that you didn't gather all the data you should have and asks that it be reviewed?

(3) What's your stance on what is often called a "least common denominator philosophy"? Often we gear programs, policies, procedure, to the least responsible ward in our population. Are you able to live with different policies and procedures for different wards or groups of wards when these are based upon performance or incentives which are somewhat observable and measurable? Or are you more comfortable with having everything run the

same in that it creates less "hassles" and brings less "heat" to bear on you? Can you comfortably individualize?

(4) What do you feel is needed to teach responsibility to wards in an institution? What do you think accomplishes rehabilitation? Do you believe that learning to follow rules does it, or do you believe that one has to learn how to manage yourself in some kind of an adult, responsible fashion?

(5) How do you balance security-safety versus opportunities for wards to handle responsibility? Oftentimes we justify a position on the basis that "if such and such should happen." Yet we find that it never has happened, may never happen, but still we program on that premise.

(6) How do you feel about simply confronting staff and overturning a hall or unit policy with which you disagree?

(7) Are you willing to take a hard line and decide what are basic ward rights and what are basic ward privileges? What is your core or minimum program? We need to change our own "hands off" policy about defining wards' rights.

(8) How do you feel about exploding correctional myths? These may be paraphrased as "it's policy," "that's my classroom," "my diningroom." Many of these deal with "squatter's rights." Many also deal with other factors such as "discussing why with wards is the same as cowtowing to them," "if you let one of them get away with it, they'll all attempt to get away with it," "we must maintain control of the group," "it's all he can emotionally handle," "I'm the therapist and know best."

(9) Individual halls or program units often adopt policies or procedures which are stricter than the institution, or at times are contrary to policy or what you, as a human being, may personally believe. Are you comfortable with taking a stand in those situations?

(10) Staff complain that they get too many "petty bitches" in the Grievance Procedure. Can you help them understand that when you're locked up a daily "petty" irritation can become major! Or that just being unable to get a straight explanation of a minor point can be a major frustration!

(11) Our wards have an emotional maturity age different from their chronological age. They demand rights and privileges and file grievances based on their chronological age. How much "risk-taking" or "experimenting" are you willing to do in this "gap" (emotion age vs. chronological age)? No risk often becomes rationalized by us as "treatment" and viewed by the ward as "tyranny."

Not all of the above will apply to everyone dealing with a Grievance Procedure. However, in developing and making a Grievance Procedure work, these are things which administrators and middle managers acknowledge that they had had to think through and make personal decisions about.

If management pushes the system, does not express anxiety over the system, communicates security and the confidence and competence of staff to operate reasonably and responsibly, a great deal is done automatically to overcome staff's anxiety and create within them comfort with the system. If the Superintendent or the top manager does not push the system, audit the system, raise questions about the system, and look into what's going on with the system, it's dead.

This perhaps is one of the most critical issues in the early stages of implementation. It is also one of the most critical issues in getting staff to communicate the implied permission to use the system to wards. A working system is that simple and that time-consuming for a administrator.

F. The principle of emergency grievance is a critical issue with staff and wards. Staff react to it in that it allows wards to bypass the entire organizational structure and go straight to the Superintendent. The

stance that a Superintendent takes in defining what is emergency is critical; both to letting the wards know what is going on, and in reassuring the staff that you are not trying to bypass them with the Grievance Procedure. At Karl Holton emergencies are pretty well defined as physical danger and occasionally, critical time factor. The only kind of critical time factor emergency which exists is where it's late in the week, such as Friday, a day pass which has been approved has been taken away, and there is a need for an immediate decision. The constant battle is that wards find almost anything and everything immediate, particularly if they're angry at the same time. It becomes a matter of how the Superintendent responds that defines what is an emergency and what is not.

G. Relating to Management Structure

Staff often are threatened in that the Grievance Procedure implies to them that they are not doing their job. How the second level of review or appeal relates to line staff is critical to this issue. Earlier, directions were given as to how things should be handled when a grievance committee refers matters to the treatment team or to the large group counselling session. Other institutions should be aware of those kinds of problems and design from the beginning procedural safeguards so that time limits, wards' rights to use the procedure, appeals, etc., are not violated.

How the administration relates to each management unit effects the autonomy of each policy-making program-planning body in the institution. One excellent way to do this and demonstrate reasonableness is to point out that many solutions to a problem are reasonable. Therefore, whatever the team does in that area is supported by administration and teams are allowed individual differences. One fear of staff is that via the Grievance Procedure, everyone will have to run an identical program. An example of this is a grievance at Karl Holton about whether the lockers that wards are provided with are put on their bottoms or on their sides. One hall did it one way, and another hall wanted it done that way, but the local group, i.e. the treatment team, said "no." This was appealed to

the Superintendent's office and the decision was that it was as reasonable to put them one way as the other in that wards were provided a locker for storage.

H. Communications

Communications are a continual problem in an institution, and the Grievance Procedure only enhances the problem. The usual communication problems along the organizational structure lines are compounded by the fact that the Grievance Procedure follows these and adds strict time limits. Interestingly enough, it seems there is no communication system in operation which is developed or operated with any rapidity. In addition to the time limits creating problems is the fact that part of the Grievance Procedure involves elected ward clerks. Correctional communications traditionally keeps that communication pattern the sole province of staff. Therefore, letters going to the clerks, clerks requesting to see management staff or clerks requesting immediate interviews or phone calls to the Superintendent's office, often disrupt staff. To overcome this it has become standard practice at Karl Holton to send to each grievance clerk a copy of any policy memorandums or other documents which change rules and regulations or create new rules and regulations for wards. However, again cultural tradition seems to produce "gremlins" and difficulty follows.

Another communication problem is the need to communicate among all wards, particularly the clerks, and treatment team staff, what is occurring in the Grievance Procedure in terms of what resolutions are being made. This avoids duplication of grievances. It also provides a means by which all staff and wards involved in the procedure can learn more about reasonable resolutions. Also, through the Grievance Procedure we develop "case law," and this needs to be communicated.

As a result of grievances, policy and procedures are changed. Timing them becomes very critical in the communications process, since nothing engenders hostility from staff toward the Superintendent more quickly than a ward receiving an answer to his grievance, i.e. the new policy, before staff. Therefore, rather standard practice is to issue copies of the

response to the grievance to concerned staff first. Tell the ward the policy is being changed, not telling him how. Then issue the actual policy change statement to all staff.

During any implementation stage of a Grievance Procedure, there is a need for very rapid communication between the Superintendent and all staff involved as well as wards to spotlight problems and remedy them.

I. Training

Chapter IV dealt with the training packages which appear necessary to maintain a Grievance Procedure. How they are developed, who develops them, who presents them are all a local option issue. Unless they are developed prior to or at the same time the procedure is implemented, so that their operation coincides with the beginning of the procedure, there will be almost an immediate breakdown. Experience indicates that the wards who help form a procedure are on parole by the time the procedure is implemented; and though the staff are still around, you immediately have a new group of wards involved. Therefore, the training package must be started immediately and not left to be developed at some later point in time.

J. Auditing and Evaluation

Implementation planning should include some local in-house, ongoing means of auditing and evaluating the process. Karl Holton's solution has been to ask the clerk to audit his books once a week and being overdue grievances to the attention of the chairman. Having the TTS audit the book every other week for the same reason also helps. During these auditings there should be a discussion focusing on any problems that are occurring, or forthcoming. Such things as wards who would like to file grievances but fear reprisal, groups of wards who are planning a class action, or even more critical, wards who are experiencing a problem but do not know how to handle the forming of the grievance and possibly need staff help in interpreting the Youth Authority Manual, the Board Manual, etc. Grievances handled informally should be audited by the Superintendent as outlined in Section C.

There are many ways or opinions as to how one evaluates a Grievance Procedure. Some feel if it's used frequently, there is something wrong. The list is never ending, but each program unit and its management staff need to decide upon some common frame of reference for making their own evaluation of the procedure and its operation.

K. Status of Grievance Clerks

In order to improve communications, Karl Holton School allows its clerks unsupervised meetings once a week. Once a month they are joined by the Superintendent or Assistant Superintendent. They elect a chairman and a secretary and publish minutes. This has been very hard to establish in that unsupervised wards getting together for a meeting is low on most staff's priority list. It generally is not recognized as sound correctional practice. However, in terms of keeping the system viable and credible, it is necessary.

Along with this is the fact that the grievance clerk, because of the nature of the process, the time limits involved, his specific responsibility, and the nature of problems the system is designed to handle, must have special status. Whether this be I.D. cards, which allow him free access and movement around the institution or other special privileges, each organization will have to decide. However, he does need a liberal supply of clerical supplies for doing his work, some privacy for doing his counselling with wards filing grievances, ready access to certain people, access to manuals and other documents, or even staff outside the general security area in preparing grievances. All of these things result in having quasi-staff or special status and create problems.

L. Workload

Reactions of staff to the workload of the Grievance Procedure vary. Generally speaking, anyone operating one will find that those who sit on the committee will feel overworked. At Karl Holton School, this has been running about three hours per week for those staff. Other staff not so closely involved do not see it as a workload problem. Some staff believe that generally

speaking their total workload decreases in that the Grievance Procedure puts to rest many issues in a rather final sense. They are not finding themselves answering the same question time and time again.

Karl Holton School has handled its workload by doing everything in longhand and making the grievance clerk do the clerical chores. Staff do not have to fill out any forms, write any minutes, or anything else. They strictly conduct the hearings. The only staff clerical work involved is by the Superintendent's secretary who types responses from the office of the Superintendent, arranges for sufficient photocopies to be made, and files the Superintendent's copy of each grievance. Interestingly enough, as workload goes up, priority goes down.

M. Staff Reactions

Outside of general anxiety about a new procedure, there are specific staff reactions which periodically may make the system break down or hamper implementation.

There is the basic concern about sharing power. Unless an institution already has some kind of system whereby wards participate in management, be it large group, participatory management-style student councils, or whatever,the implementation of a Grievance Procedure in which wards have equal voice and vote on a committee with staff can produce anxiety.

Another element which bothers staff is whether or not grievances filed against them are going to be used against them. This could either be in terms of some comment in their performance reports or more specifically official disciplinary action. Karl Holton School has handled this problem by taking these grievances and having them routed to the Superintendent. He responds to the ward in writing to the effect that he is conducting an investigation and will take appropriate action. At that point an investigation is started. This is to protect the staff and maintain credibility to all. Therefore, the same day or within a day or two, the ward is being interviewed by the staff making the investigation. He feels definitely that his

problem is being attended to. It also becomes mandatory upon the Superintendent or the Assistant Superintendent that when the investigation is complete, he review that investigation and his evaluation of it with the ward filing the grievance.

How much the Superintendent or the Assistant Superintendent shares with the ward depends upon the feeling tone of the ward at that time, how the staff member involved feels about it, the actual incident, the relationship that exists between that staff member and the ward, and the stability of the ward. Generally, the more honest one can be with the ward as to what has occurred and the action taken, the more likely that he will accept the explanation.

This procedure has been acceptable to all wards and staff, particularly when the explanation is given to the ward that any kind of an open hearing with wards involved and the staff member in the position of the adversary violates the rights the employee has under Civil Service Code. Due to Karl Holton School's approach, principle #11 was added in order to formalize the procedure.

N. Ward Responsibility

Wards' responsibility to be reasonable is a major problem in implementing the Grievance Procedure. Get the message to wards through training, talking by staff and through grievance clerk and grievance preparation committee, that this is a situation in which both parties, wards particularly, must be as reasonable and responsible as they expect staff to be. A key to this seems to be heavy ward involvement in the planning and implementation process. The more wards involved in every step of implementation, in every meeting, in hearing every pro and con explanation by experts, etc., all toward gaining a fuller understanding of the process, the easier it is to establish this stance with wards. Clerks then are able to communicate on a one-to-one equal peer basis with wards which help immensely. When wards hear it from wards they respect and have elected to perform a function, they are believers.

Often, if this is not done, wards see the procedure as a way to make demands and threats instead of a place to come to negotiate. Some will anyway. This is an extremely critical problem and one which needs constant attention because of ward turnover. Without this understanding, the Grievance Procedure very quickly becomes an adversary situation where people think in terms of "win/lose" situations and both sides instead of thinking in terms of objective resolution of a problem think in terms of what they must do to win their case. Informal review and resolution can thoroughly prostitute the concept of ward responsibility. If they are excluded, they believe pressure and accuse staff of "tokenism," etc.

O. Complexity of the System

This manual is an indictment that the contents of this paragraph are not being followed. The principle that is not written anywhere is that the Grievance Procedure mechanics must be kept as simple and as easily understood as possible. Therefore, any administrator will find himself constantly fighting efforts to make the system more complex. The correctional paradox. There will be efforts to make more copies, to type the copies so that they are more readable and look nicer, to rewrite principles and procedures so that they are full of all of the "if's, ands and buts", to cover all of the possible exceptions or rare situations which may occur. There will be attempts by the legal-minded to fill the procedures with "heretofores" so that all contingencies can be handled properly and ordered. There will be efforts to write lengthy, involved manuals explaining in detail every step of the procedure so that no one will make any errors.

The difficulty with all this is that although all bases will be covered, errors will still be made; but because everyone followed the manual, the procedure will be operated with a general, bland, mediocre quality. Manuals in a Grievance Procedure tend to destroy staff's imagination, spontaneity, and innovative abilities to come up with solutions. Needless to say, if it destroys staff's abilities in those

areas, it devastates wards' abilities. The other problem with complexity is that it increases everyone's workload, because invariably with complexity comes more time limits, more forms, more documentation, and more supportive systems and checks to make sure the main system is functioning properly and on time.

Therefore, the last word to anybody implementing and dealing with a Grievance Procedure, first and foremost gear yourself to constantly fight moves to make it more complex.

"EXPLANATION SHEET"
WARD GRIEVANCE PROCEDURE

If you have a problem or complaint, you should first discuss it with your Counselor or Social Worker. If what you are complaining about is a Karl Holton School employee, discuss the problem with him before filing a grievance form.

If you are not satisfied with the solution resolved through informal discussions, you may file your grievance in writing within two working days after the informal decision of your Counselor.

You may request a person of your own choosing to help you prepare and present your grievance as long as that person has a regular connection with the Karl Holton School program.

You should follow these steps in presenting your written grievance:

1. Talk to any staff on your hall or one of the members on the grievance preparation committee on your hall, who will help you fill in your grievance properly and discuss any questions you may have.

2. If your grievance is of an extremely personal, confidential, or emergency nature, then you should inform the staff member on duty that you want to see the Superintendent, Assistant Superintendent, or Executive Officer immediately.

3. From the time you tell the committee that you have a grievance, there are 72 hours maximum available for the preparation thereof.

4. From there, your grievance will be taken to a ward/staff committee who will try and make a decision that

is acceptable to all. This decision must be returned to you within 5 working days.

5. If you are not satisfied with the decision of the ward/staff committee, you can notify the grievance clerk who will refer your grievance to the Superintendent's office. He will respond to you either personally or through writing within 5 working days. You have 24 hours to decide.

6. If you are not satisfied with the decision of the Superintendent's office, you can notify the hall grievance clerk that you want to refer the grievance to the independent review panel. They will review it. Their decision will be only a suggestion to the Superintendent and not a requirement. They have 14 days to answer.

7. If you do not receive a response within the number of working days mentioned above, you can automatically go to the next highest level.

8. The total number of working days from the time the grievance is given to the ward/staff committee until the Superintendent responds must not exceed 11 working days.

9. Any of the above limits of time may be extended by the agreement of the ward and the level of review before which he is appearing.

10. Any staff members personally involved in the grievance are exempted from participating in the decision making meeting.

11. Under no circumstances shall any reprisals, punishment, or anything negative happen to a ward who makes use of the grievance procedure.

APPENDIX D

WARD ORIENTATION TO GRIEVANCE PROCEDURES

WARD ORIENTATION TO GRIEVANCE
PROCEDURES

GRIEVANCE

Why Do We Have a Grievance Procedure?

The purpose of the Student Grievance Procedure is to insure that your complaints will have a full hearing and will come to a resolution. The procedure is not intended to replace informal methods of solving problems (such as talking to the student or staff you're having the problem with) and efforts should be made to solve problems in this way.

What is a Grievance?

If you cannot solve the problem by talking with the person involved, you may file a written grievance. Grievances may be about any rule or the way a rule is enforced or about any behavior or action directed toward you by staff or other students. DDMS actions or discipline cannot be grieved, nor can staffing recommendations or Board Transfers at Initial Hearings.

How Do You File a Grievance?

To file a grievance you should see your cottage grievance clerk. (If a grievance concerns an incident that has occurred, you must file within 48 hours or the matter shall be considered not a grievance. The clerk will discuss your grievance and see to it that you have a representative if you desire one.

In addition, the grievance clerk will caution you about the importance of being reasonable and responsible through this procedure.

You should not file a grievance just to get even with someone. You will be held responsible for any deliberate slander or lying and discipline may result.

Who Can Serve as a Representative?

You may, if you want a representative, select one from among other students, staff or volunteers who are active in the Ventura Program.

EXCEPTIONS

What is an Emergency Grievance?

An emergency is a problem which needs to be resolved right away, such as physical danger or time factors.

How to File an Emergency Grievance.

If you have an emergency grievance, you should tell a staff member or the grievance clerk and fill out the grievance form. The Superintendent will be contacted and a decision in writing will be made within 24 hours.

What Could Happen if Your Grievance is Against Staff?

If your grievance is about a staff member's action, which may result in discipline being given that staff, it will be handled in a different way. It will go directly to the Superintendent for investigation and you will be notified of the decision.

How to File if in Lock-up or On Restriction

If you are in lock-up and want to file a grievance, tell the staff and they will give you the form to fill out. This form will then be given to the grievance clerk.

REVIEWS

Informal Review

After filing a grievance you can have an informal review, if your grievance is a problem with another individual. This is basically

a discussion of your problem with the Grievance Clerk and other persons involved and must be held prior to cottage hearing. If you do not want this informal meeting, you can go to the Cottage Grievance Committee.

Cottage Hearing

At the cottage grievance committee hearing you and your representative, if you have one, will be present to present your complaint and how you feel the problem should be solved. The Committee consists of two students elected by your cottage, two staff members, a mediator and your cottage grievance clerk. The cottage hearing must be held within seven days after you file your grievance unless all parties agree to a postponement for good reason.

Superintendent's Hearing

You have 24 hours to appeal the grievance to the Superintendent's Office. You may do this by telling your Grievance Clerk that you wish to appeal. You will receive a written response from the Superintendent within five (5) weekdays. You may appeal to outside arbitration by telling your grievance clerk within 24 hours that you wish to do so.

Director's Hearing

The Director will be responsible for responding to grievances which are related to Departmental policy. If you appeal a departmental policy it will go through the following procedure:

1. The grievance will be heard at the cottage grievance committee and a recommended resolution will be forwarded to the Superintendent's office.

2. The Superintendent will review the material and also make a suggested resolution of the grievance.

3. The Superintendent's office will then forward the grievance to the Director.

4. The Director will respond to the grievance within ten (10) calendar days which will start at the time it is mailed from the Superintendent's office.

You may appeal to outside arbitration by telling your grievance clerk within 24 hours that you wish to do so.

Outside Arbitration

You will choose a member to be on the arbitrator's panel. (This may or may not be the same person you selected before.) The panel member's role is to provide information to the arbitrator and help him come to a decision. You will be notified of the time and place of the hearing and will be present to present your complaint. You will later be notified of the decision. The arbitrator's decision is advisory only which means that the Superintendent/Director may or may not accept the decision of the panel. The Superintendent/ Director will respond in writing in five (5) weekdays as to whether or not they have accepted the decision of the Arbitration Panel. This is the final step of the grievance procedure and no further appeal is allowed.

PROTECTION

Under no circumstances shall any reprisals, punishment, or anything negative happen to you for using the grievance procedure. If this does occur, then you should file a grievance about this.

APPENDIX E

GUIDELINE FOR GRIEVANCE COMMITTEE HEARINGS

(Distributed by CYA as a Training Guide for Grievance Committee members.)

GUIDELINE FOR GRIEVANCE COMMITTEE HEARINGS

A. The Purpose of the Ward/Staff Grievance Committee and the Role of the Chairman

While the Grievance Procedure has a number of steps, including a final step advisory Independent Review Panel, its maximum impact on the system will be directly proportional to the success of its first-level Ward/Staff Grievance Committee.

Agreements reached in a system are better than decisions rendered. This is true even when that decision-maker is an impartial Arbitrator. When parties ask an arbitrator to decide, they are saying they can not decide for themselves. When they reach a joint recommendation and that recommendation is accepted, it means that the system is governing itself.

Joint recommendations of the Committee will require accomodation, compromise, and an ability, by both wards and staff, to recognize each other's interests and needs.

A Committee Chariman can play a vital role in this process. As a Chairman your role, essentially, will be that of a mediator. You will have no vote. You will have no authroity to impose a settlement. Your purpose is to facilitate an agreement. You must act as "the person in the middle", standing between the contending forces, serving as a vehicle for bringing them together.

An initial word of caution, don't make too much of this. If the wards and staff are coming together without you, let them. As the person in the middle, you have to remember that they, more than you, will have to live with the agreements reached. Consequently, it is their competing interests and needs that must be reconciled.

If you are a CYA employee you are obviously part of the system and have authority in it. But as a non-voting Chairman of the

Grievance Committee you have no authority as such. It will be difficult, but essential, to separate these roles. If you use staff role clout to "dictate" joint Committee recommendations the value and purpose of the procedure will be lost. When acting as a non-voting Chairman your needs, your interests, your views on what the system should look like or what a particular settlement should be are not as important as the views of the voting members.

To help the voting members fashion settlements, it may be necessary, at times, to meet with each group separately. This may not always be possible, but where it is, it can be highly effective if done properly, for separate meetings are when settlement possibilities can more fruitfully be explored.

In any case, your resources will be patience, openness, understanding, a highly developed ability to listen, and, at some point, persuasiveness.

B. The Importance of Trust

To bring any of these resources to bear on a problem, you must have credibility and some measure of trust. You have to gain confidence and trust (wards and staff often do not trust each other) so that they will be willing to take some risks with you. If they don't take some risks with you and eventually with each other, there will rarely be an agreement.

By trust, we don't mean that voting members must have total and unshakeable confidence in you, but that their distrust level is sufficiently low so as to allow you to function.

Trust will have to built at the initial stages of the procedure, at the first hearings. Whether trust comes or not will depend on each of you individually. Saying it won't make it so. Trust is more a matter of what you do and how you do it. It is also very fragile, never owned outright, but constantly earned.

The fact that you will be cast in the role of a non-voting Chairman will help in itself, because the position is structurally an objective one, but the way you behave in that position will be of critical importance.

C. The Purpose of the Hearing

A hearing is initiated by a complaint. The complaint may be individual or institutional. It may be a grievance, complaining of a specific action or a general policy, or it may be a suggestion for change.

The purpose of the hearing is to (1) identify the issue of issues (they may sometimes be obscure), (2) get at the facts, if there is any dispute as to the facts, and (3) hear the arguments on all sides.

The form of the hearing may not always be the same. This is because different cases may require different forms. In some instances, the parties may simply state the problem and their respective positions. In others, there may be factual issues which call for testimony and cross-examination. In such cases, where the nature of the issues requires a quasi-adversary format as contrasted to a somewhat more informal discussion of the problem, the customary order of procedure is:

1. An opening statement by the complainant or his representative, followed by a similar statement by the other side.

2. Presentation of evidence, through witnesses and documents, by the initiating party.

3. Cross-examination by the other party.

4. Presentation of evidence, through witnesses and documents, by the responding party.

5. Cross-examination by the initiating party.

6. Closing arguments by both parties.

As stated, this is the customary adversary procedure, In a proper case, it can and should be varied. For example, if the complaint is that a ward was unfairly excluded from a vocational program, it makes more sense, after the opening statements, for the institution to proceed with its factual presentation first and set forth why the ward was not selected. Otherwise, the ward is in the position of anticipating and trying to defeat arguments that may never be advanced.

Irrespective of the procedure followed, the Chairman's job during the hearing stage is to keep the proceedings orderly and manageable so that each side is afforded a full and fair opportunity to present its case. By being even-handed and by letting the parties tell their story, a Chairman is enhancing credibility in two wary: (1) you're making it clear that you are not there as a partisan spokesman for either side, and (2) you're letting the parties tell you what the dispute is all about. Both elements are important. If your conduct of the hearing pegs you as a partisan, you ability to function as an intermediary in the decision-making process is at an end. If your conduct of the hearing leaves either side with the impression that its full story wasn't permitted to be told, the process itself will soon be discredited.

D. The Decision-Making Process

The Committee's function after the hearing is to help the disputants resolve the matter if they can, and, if that is not possible or appropriate, to fashion a joint recommendation for its equitable disposition. Obviously, this process will require a level of communication and trust not often present in an institutional setting. Your initial job in post-hearing discussions will be to keep the communication channels open, to reduce defensive communication, and to prevent the early adoption of rigid positions. This can be done by playing a mediator's role, by, as deftly as possible, channeling the discussions through you. Wards and staff will obviously have a "differential perception" of many problems. By being in the middle, you can become a translator of those perceptions, particularly, as discussed later, in the separate sessions.

1. Reducing defensive communication

Defensive communication, and, as a consequence, inaccurate communication, occurs when an individual is distrustful of another or feels threatened, sometimes subconsciously, by what the other says or the way he says it. There is a way to listen and a way to ask questions which minimizes defensive communication and actively supports communication that is open.

a. Description, not evaluation

A mediator has to avoid value judgments in the early stages of a discussion. Your value judgments

then will stop the flow of communication and tarnish your objectivity as well. There may come a time when the others will be interested in your opinion, but that's later.

At the same time, a mediator must not appear to be judging the individuals to whom he's listening. Speech is often judgmental. For example, "Who did that?", as ordinarily expressed, appears accusatory. So one has to be careful that value statements or expressions of the mediator's personal standards which may differ from those of the others stay out of the conversation. A good rule is to say the minimum necessary to keep the exchange going and to be descriptive without using value-loaded words. A mediator can keep the exchange going by overheard responses, i.e., ("tell me more about it") or reflective responses, i.e., repeating what had just been said, without adding anything new, to show understanding and interest.

b. Problem orientation, not control

An initial appearance that a mediator is attempting to control the decision can turn a discussion off before communication begins. Consequently, a mediator must be open, convincing the parties that he is there to aid them in resolving their problem, and that he has no hidden agenda or strategy. This is not to say that the mediator doesn't want to manage the proceedings and have communications flow through him.

Obviously, if he can make the proceedings manageable and exercise some control of their ebb and flow, the chances for an agreement are enhanced. But this will never happen if the mediator seeks to impose control or his view of the "desired" solution at the outset.

c. Empathy, not neutrality

Being neutral can mean being detached, clinical or disinterested. If a mediator is neutral in this sense, if he exhibits a lack of concern for the welfare of parties or their positions, or verbally

or non-verbally indicates that the group is nothing more than an interesting object-of-study, he will not get very far. He cannot be clinical or disinterested. He has to convey empathy and respect for both sides. This does not mean that he must agree with all they way. But he has to express an understanding of their problems and positions, and accept their emotional reactions to the situation at face value.

d. Equality, not superiority

Obviously, a mediator who is there to help parties resolve a problem cannot convey superiority if he expects to be helpful. The moment he creates the impression that the dispute is beneath him or that he attaches any importance to differences in status or ability that may exist between him and the group, his usefulness is at an end.

e. Provisionalism, not certainty

Those who seem to know the answers tend to put others on guard. A mediator is no exception. Not only must he be open, provisional and flexible, he must also constantly remember that it is the immediate parties who will have to live with the eventual answers more than he.

2. Separate Sessions

Most mediators usually find it necessary and desirable on difficult problems, to meet with parties (voting members) separately. A Grievance Committee Chairman should be no exception. Both wards and staff will hesitate to explore settlement possibilities (another name for joint recommendations) directly. A suggested compromise may be interpreted as a sign of weakeness, peer pressures may be at work, even who makes the first move can be a stumbling block. Separate sessions can provide a vehicle for exploring those possibilities at little risk to those involved.

The purpose of the separate session, of course, is to explore the settlement possibilities without undermining the previously-stated "public" position of either side.

a. Confidentiality

You can't begin to explore settlement possibilities in this way unless you can convince both sides that what they tell you in confidence will remain so.

In your regular job, if you are a staff member, you have a judgmental role and can "hurt" both staff and wards. Therefore, there might be some hesitancy in meeting separately with you and revealing real positions. Your conduct as Chairman will be important in overcoming this natural reluctance. If you've conducted an even-handed hearing, this should be helpful. (If you are not a staff member, but an outside volunteer, this problem is not so acute.) When they do meet with you, you should tell them that your purpose is to explore settlement possibilities, that you do not intend to reveal any position that they do not want revealed (that will be believed, of course, only if you keep your word), but that you hope to explore whether there are any areas of agreement. Tell them, too, that if there are such possibilities, you would want to explore them with the other segment without commitment and without jeopardizing their stance. That can be easily done.)

b. The Mediator's role

In a separate session, the mediator should try to explore all aspects of the problem before the Committee. Let the group tell you what it thinks first, then go beyond the claim for relief or demend and explore the underlying reason for it. (A demand, after all, is one side's solution to a problem. There are probably others.) Try to identify matters of principle. Make the group think of alternatives, get them to explore the perspectives, needs and interest of the other side. Get them off the zero sum, win-lose, all or nothing syndrome. Throw out ideas, try things on for size, not as your recommendation, but as "what if" possibilities for them to consider if the other side would do the same.

Out of that exchange, you may get some movement, some narrowing of the gap. You can then repeat the process with the other segment. Now, however, you know more, you have a wider information base, your questions can be more intelligent, and the facts within your possession can be selectively released to facilitate reciprocal movement.

At this point, you may have a sense of the possible alternative solutions. If the positions of each side match, write the joint recommendation. If they don't, keep working.

c. Settlement Building

A Grievance Committee Chairman doesn't have the tactical possibilities of a traditional labor-management or community disputes mediator. There are no strike deadlines or arrest threats which can be used as external pressure. (On the other hand, the procedure's time limits may be of some help.) Yet there are some techniques which can be helpful in creating a settlement psychology and building in agreement. They are not set down in chronological sequence, nor is there any way to teach when or in what circumstances they, or any one of them, can be used. That comes from experience alone.

As a mediator building a settlement, you will often have to take a firmer stance with the parties. Many times, a mediator must move from the more pleasing role of facilitator to being an agent of reality. As an agreement, or its possibility, nears, a mediator's job is to push, nudge, and shove -- to increase the perception of each party to the other's needs and to build a reality framework within which they can assess the costs and benefits of either continuing or resolving their conflict. In this role, mediators run the risk of suffering the fate of the king's messenger. This is not only an unavoidable risk, most times the mediator alone is the only person in a position to take it.

1. The selective release of facts and the no-risk narrowing of positions

Mediators rarely tell all they know, rather they selectively release facts to generate movement. Telling all they know all at once is usually not productive.

When a mediator is told (or accurately surmises) that a party is willing to compromise on a point, he can simply tell the other side. If he does, that side will often interpret the offer as a sign of weakness, reject it and demand further movement as the price of an agreement. However, if he communicates the offer as a hypothetical possibility, which he is yet to, but will, explore, the risk of rejection is significantly minimized. If the "possibility" is accepted, the agreement is at hand, even though the mediator, at that moment, is the only person who knows it. If the "possibility" is rejected, the effect of rejection is minimal. The "possibility" was just a thought of the mediator, nothing else, and the offering party's position is not weakened, because no offer has been made.

2. Deflating extreme positions

In this context, whether or not a position is extreme has nothing to do with its merit. The only question is whether it's attainable. If the mediator becomes convinced that it's not, or almost certainly not attainable, then he has to drive that point home. (Obviously, this is done in a separate session, not a joint meeting.) The party so educated may choose to forego and agreement rather than yield, but it should do so with the facts, not without them.

3. The consequences of "no agreement"

Being deeply involved in a controversy does something to one's perspective. It often distorts it. Parties tend to weigh possible

settlement terms against other possible settlement terms. Often, the real choice is between agreement on particular terms and no agreement. Thus, the mediator has to dwell on the consequences of not reaching agreement -- what happens then, will tensions increase, will the situation deteriorate, does the agreement create an acceptable plateau or not, does the institution have a breather and some period of stability or not, will the process be hurt. In short, what are the consequences of an agreement at all, and how do they balance up?

E. The Joint Recommendation

It may be that your efforts and the deliberations of the parties result in a joint recommendation. If such a recommendation is agreed upon, you should be the one to write it up. don't depend on drafts submitted by the other members. If you do, the argument may start again. Try to assume responsibility for the draft. Of course, the others can comment on it and suggest changes. After all, it is their agreement. But your draft will tend to be more objective and less value-laden. As a consequence, final agreement should be easier to achieve.

A Final Word

This Grievance Procedure is a unique experiment which will require effort if it is to succeed. We hope the suggestions made here can be helpful to you.

Obviously, all cases will not require the use of every technique or every other persuasive device which a mediator may have at his disposal. It's equally clear that some cases will not be resolved at the Committee level no matter how persuasive a mediator may be. Your experience will probably run the gamut from easily resolved issues to insoluble problems. but you should try to settle them all.

You will make mistakes. Everyone, including the most experienced mediator does. But you and the others involved can profit from them. And, don't take the points discussed in this document as rigid gospel to be applied in all cases. Treat them as suggestions, as examples of useful mediator behavior which you can utilize only in you own way.

APPENDIX F

GENERAL TRAINING GUIDE

(Prepared by the CYA as a guide for institutional training efforts.)

GRIEVANCE PROCEDURE TRAINING GUIDE

In introducing or maintaining a grievance procedure, five distinct types of training are essential. All must take place before a procedure is implemented. All must be repeated periodically, either when problems in the procedure or ward/staff turnover require it.

The five training needs are:

A. Top management staff orientation.

B. Training for the ward/staff committee, including training in mediation.

C. Training for the grievance clerks.

D. General orientation for wards and staff.

E. Training for auditors.

A. Management

The institution managers must have a clear understanding of the purpose and rationale of grievance procedure, its importance and priority within the Department, and the superintendents' commitment to it.

The superintendent should be fully trained in his role as a level of review for appeals, for emergency grievance, and for grievances which may result in punitive action against an employee. Managers who sit as a level of review and/or may be called upon to review grievances or appeals to the superintendent, i.e., emergency grievances, superintendents' absence, etc., must have a thorough understanding of their role and responsibilities.

Clerical staff responsible for receipt of appeals and grievances to the superintendent, and/or routing of responses from the superintendents, should be trained in their function.

The importance of careful monitoring of the system and regular reports to the superintendent should be stressed.

B. The Ward/Staff Committee

The Committee's purpose is to hear the grievance, identify the issue (or issues), get all the facts and arguments, and then make a decision.

The procedure is not designed to adjudicate guilt, but to resolve problems. Generally, it is working best if problems are resolved to everyone's satisfaction at the lowest level -- when the Committee's decision (or recommendation to the superintendent) is unanimous and the grievant and affected staff agree with it. Sometimes this is not possible, basic interests or differences in perspective will not permit it. But the fact is that the great mass of industrial grievances are resolved at the lowest level of the grievance procedure without recourse to higher authority or independent review, such as arbitration. There is no reason why this can't happen in the California Youth Authority.

The best way to train the Ward/Staff Committee in the conduct of hearings (and the discharge of its responsibilities) is to let the Committee do it through simulations, preferably with the use of video tape. Essentially, this is a "negative learning" technique. It is highly effective when the subject being "taught" is a process.

Construct a grievance, put the facts on a grievance form, get wards and staff to enact the roles, check the facts with them so they are fully aware of the problem.

After explaining the purpose of the hearing to the prospective Committee, let the problem be presented. You know what the problem is, you know the purposes of the Committee. Now watch.

1. Was the seating arrangement and physical surroundings conducive to a full and open hearing?

2. Did the Chairman explain the purpose of the hearing to the grievant and others present? Did he check

to see that all of the ward's rights had been provided for, i.e., a representative, etc.?

3. Did he allow full expression by both sides?

4. Did he appear to be open and objective or did he appear as if he knew what the answer was or had made up his mind?

5. Was the hearing orderly or was there a great deal of cross-talk and chaos?

6. Did he stick to the issue (or issues), or, knowing that some ventilation must occur, did he nevertheless let parties wander unnecessarily?

7. Did he give the panel members an opportunity to ask questions after the presentations had been concluded?

8. Did all the facts and arguments get on the table? If not, was it the fault of the parties, or the panel? Did the panel understand the issue, was it perceptive, did it probe? Were policy issues identified?

9. Did the parties feel that they had every opportunity to tell their side of the story?

10. Did the Chairman attempt to identify possible areas of compromise?

11. Did he bring closure to and end the meeting?

(Each of these points is important. Users of a procedure must see it as fair. Fairness is many elements -- that you understand what's going to happen and what the procedure is all about, that you'll have your say, that people haven't made up their mind before it's over, that everything you had to say was heard and in an orderly way.)

After the hearing is over, the Committee should go into executive session with all non-committee members excused. Here the Committee's purpose is to arrive at a decision. The Chairman, if he is non-voting, acts as a mediator to help the others arrive at a decision. (An accompanying paper describes some of the techniques he might use.)

In the executive session:

1. Did the Chairman retain his objectivity?

2. Did he go beyond the "recommended action" and search for other alternatives that might be more acceptable?

3. Did he let solutions come from the other panel members or did he seek to impose his solution?

4. What was the approach of the other panel members -- were they open, did they try to understand and reach toward the other viewpoint, or were they rigid? Was there a feeling that they were seeking a solution or only "their solution"?

5. If a solution was reached, was it understood? Was it clearly set down so that others could understand it? Assuming it was not perfect (most solutions aren't), did it appear to meet the problem relative to the request?

6. Was "authority" used to pressure anyone or did the solution appear to be the best the panel members felt they could get in the circumstances?

After the Committee has reached its "decision", you as the trainer, are in a position to critique both the hearing and the executive session based on the above guideposts. If the sessions have been video-taped, you can use the tape in a stop - talk format, with you or anyone else raising questions or making comments.

As you go through the tape, or even without it, it's best, if at all possible, to let the participants identify and recognize their own mistakes. Don't badly point them out. Ask why such and such was done, what the effect was, whether there were other, perhaps better, ways to do it, ask others why their reaction would have been if it had been done that way, etc. Show that way. Don't talk about it, but do it by going back into the simulation if you can.

When the discussion is concluded, run a different type of grievance through; run as many as you can. Only in this way, will the Committee become comfortable with the process and recognize what works and what doesn't.

It might be advisable to also have separate sessions with those who will be acting as impartial chairmen, concentrating on the mediator's role. Using other grievances and the companion piece on mediation, you can set up simulations where one person acts as the mediator while others act as non-voting members. Then, roles can be reversed. In this way, members of the group can critique the mediatory behavior of each.

When the procedure is operative, you should attend some hearings and executive sessions. Your subsequent comments on process may be helpful.

In training mediator/chairmen and panel members who will be replacements for others, try to take a background seat. As primary trainers, use the best present chairmen and panel members if you can. But don't make the mistake of skimping on training just because the procedure has been operating. Being a panel member of chairman is a difficult role. It is not something that most people can just slide into. Actual experience is necessary. That's why simulations are essential. Don't depend on explanations or video-tapes of someone else doing it. Give the replacements the same role play experiences and guidance as the originals had.

C. Training For Grievance Clerks

The Grievance Clerk, whether he be ward or staff, plays a critical role. He makes the procedure go.

Among his duties are:

1. Assisting wards in preparing grievance (this includes a clear statement of the problem and a recommended resolution).

2. Assisting, if desirable, in informal resolution.

3. Arranging for representation if requested.

4. Processing the grievance through the hearing and appeal stages.

5. Informing wards of grievance dispositions and appeal rights.

6. Maintaining accurate records so that grievances are not "lost", time limits are followed and grievance dispositions are known.

7. Orientating new wards to the procedure.

8. Meeting with other Grievance Clerks to discuss problems, grievance dispositions, and the like.

New Grievance Clerks, whether they be wards or staff, will need guidance and monitoring in the initial stages to ensure that the system is operating effectively.

As to training, some of the duties are routine and can be explained by illustration. However, some duties require judgment and discretion. Here, simulations can also be helpful. Two of these areas are (1) assistance in preparing grievances and (2) assistance in informal resolution. As to the first, an aggrieved ward may not be able to express himself well or an issue or problem may be obscure. To properly perform his role, a Grievance Clerk has to know what the regulations are, how to question patiently so that he fully understands the problem, and what grievances on the point, if any, have been decided in the past. He has to know how to counsel as to what is achievable and what is not. Simulations can be constructed to sharpen skills in each of these areas.

In regard to informal resolution, the Clerk must virtually become a mediator -- at the very least, a diplomatic advocate. Here too simulations can be an aid. For example, set up a problem where the grievance can be resolved by the verification of a record or by bringing the disposition of a prior grievance to a staff member's attention, but make the staff member a "hard nose" who doesn't like the procedure. Should the Clerk approach him dead-on or in some other way? The answer, as in most negotiating situations, is by looking at the problem through the staff member's eyes and then trying to determine what will get him to say "yes". Use of such simulations and these critiques can develop a pattern of "negotiations thinking" which can aid in informal resolution where that is desirable.

D. General Orientation of Wards and Staff

Staff and wards have different concerns when a new procedure is being implemented. Staff members are apprehensive, wards are cynical or, at best, doubting. (They also may expect too much.)

For these reasons, it may be best to conduct ward and staff orientations separately. In either case, small groups (no more than 10-12) are essential. Training should immediately precede implementation.

Ward Orientation

Ward orientation should be conducted by clerks and ward panel members who have gone through the training. In addition to copies of the grievance procedure, they should have a simplified version of it. (Line drawings, comic books, etc.) They should also be armed with examples of cases which have been resolved through the grievance procedure in other institutions. (Those cases can be used both to convince wards that the procedure is effective and staff that it will not lead to chaos.) For groups of wards, ½ hour to 2 hours may be required depending on group size. See that the clerks (or panel members) adequately explain the procedure -- (1) what it covers, (2) what levels of recourse are, (3) rights of representation and right of appeal, (4) time limits, (5) written responses, (6) no reprisals, (7) no mention of grievances in case conference or Board reports, (8) hearings and reviews seek resolution not win-lose decisions, etc. Emphasis is desirable on time limits, representation rights, written response guarantees, no reprisals, and the right of independent review. They should emphasize that wards have a key role in running the procedure and that the administration is strongly in favor of it. Allow plenty of time for questions. Let the ward representative answer them, but if the answer is fuzzy or wrong, don't hesitate to step in.

Because of ward turnover, this orientation will have to be repeated frequently, perhaps as much as once every week or two.

Staff Orientation

Here, the problem will be anxiety. The best bet is for the first part of this orientation to be conducted by the superintendent, who must emphasize that he is wholeheartedly in support of the procedure and expects such support from others.

Again, the procedure and its philosophy should be fully explained. Concrete examples of cases resolved in other institutions should be used. (In some instances, rumors of particular cases have replaced facts. The superintendent should be prepared to deal with those matters.)

The treatment value of the procedure (wards learning to deal with a system, sharing responsibility, etc.) should be highlighted. Stress should also be placed on the grievance procedure as a management tool (Providing a forum for problem solving, dealing with problems before they get serious, clarifying policy and procedures so that all understand them, using independent review as a means of establishing basic fairness, and so on.)

All anxiety won't be relieved, nor will you have achieved full acceptance. In many cases, you will get no more than a "wait and see" attitude. Training and constant monitoring of the procedure to see that it is operating effectively will be needed to transform that attitude into a positive one.

E. Auditors

Institutional auditors must have a thorough understanding of the procedure and should be involved in all of the above training. An auditor must be objective and not primarily involved in the system he is auditing. He must be taught what to look for and how to look for it. A check list should be developed for the auditor's use to serve as a guide for his query and report.

The auditor's checklist should include:

_____ Ward/Staff understanding of procedures.

_____ Access to emergency grievance.

_____ Access to wards by restricted status.

_____ Representation and assistance available.

_____ Use of procedures to resolve disagreements over whether a complaint falls within the procedure.

_____ Full and fair hearings being conducted.

_____ Written responses, including:

_____ Reasons for decisions.

_____ Time limits on adopted resolutions.

_____ Time limits being met.

_____ Ward advised of right of appeal.

_____ Records of all reviews including informal ones.

_____ All roles being performed properly.

_____ No reprisal.

_____ No deprivations included in resolutions.

_____ Ward/Staff credibility.

_____ Appropriate routing of grievance as required to:

_____ Research

_____ Central Office

APPENDIX G

WARD OR INMATE QUESTIONNAIRE ·

CENTER FOR CORRECTIONAL JUSTICE
INMATE QUESTIONNAIRE

1 2

3 4 5

The Center for Correctional Justice in Washington, D.C. is studying 15 prisons that are reported to have effective programs for handling inmates' complaints. This institution is one of the 15. You have been picked at random to help us find out how well inmates' grievances are handled here.

Feel free to answer honestly. Individual responses will not be shown to anyone at the institution, although we may provide a summary of the answers on request.

PLEASE DO NOT SIGN THIS SHEET

1. How old are you? 6

2. How long have you been at this prison? (Count previous time if you are back as a parole violator) _____. 7 8

3. How does this institution compare with others you've been in or heard about? This one is worse ___, the same ___, better ___. Don't know ___. 9

4. Generally speaking, does the staff at this institution care about how inmates are treated? Yes, very much ___, Yes, somewhat ___, Not really ___. 10

5. Does the Superintendent/Warden care about how inmates are treated? Yes, very much ___, Yes, somewhat ___, Not really ___. 11

6. How often do you see the Superintendent/Warden around the institution? Every day ___, At least once a week ___, At least once a month ___, Less than once a month ___. 12

7. What would you do if you had a serious complaint about an institutional policy? _____
_____
_____ 13

8. What would you do if you were treated very unfairly by a staff member? _____
_____
_____ 14

9. Is there a particular person designated to handle inmates' complaints? Yes ___, No ___. Don't know ___. If yes, who is it? _____ 15

10. Do you know anyone who has complained to this person? Yes ___, No ___. 16

If Yes, was the complaint handled promptly? Yes ___, Sort of ___, No ___, Don't know ___. 17

Was the complaint handled fairly? Yes ___, Sort of ___, No ___, Don't know ___. 18

11. How much of the time do inmates who make serious complaints to staff get an answer? 0-25% ___, 26-50% ___, 51-75% ___, 76-100% ___. 19

12. How long does it usually take for an inmate to get an answer to his complaint? 0-2 days ___, Less than a week ___, Less than a month ___, Longer than a month ___, Don't know ___. 20

13. If an inmate doesn't like the answer, can he appeal it? Yes ___, No ___, Don't know ___. 21

14. Have you ever been given a written explanation of how to make a formal complaint? Yes ___, No ___, Don't know ___. 22

Have you ever been given an oral explanation of how to make a formal complaint? Yes ___, No ___, Don't know ___. 23

15. If an inmate writes to the Commissioner (Director) of the Department, how long does it take to get an answer? Less than a week ___, Less than a month ___, Longer than a month ___, Don't know ___. 24

APPENDIX H

GRIEVANCE FORMS

_____ CORRECTIONAL FACILITY

GRIEVANCE FORM

DATE _____

NAME _____ NO. _____ HOUSING UNIT _____

THIS FORM MUST BE FILED WITHIN 72 HOURS OF GRIEVANCE INCIDENT

DESCRIPTION OF PROBLEM: _____
(Please make as short as possible)

_____

_____

_____

_____

_____

_____

SIGNED: _____ DATE: _____

GRIEVANCE CLERK: _____

ADVISOR REQUESTED ☐ YES ☐ NO WHO: _____

ACTION REQUESTED BY INMATE: _____

_____

_____

This Grievance has been informally resolved as follows:

_____

_____

_____

_____

This Informal Resolution is accepted:
(To be completed only if resolved prior to hearing)

GRIEVANT SIGNATURE _____ DATE ____

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

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GRIEVANCE FORM
PAGE TWO

RESPONSE OF IGRC: _____

_____

_____

_____

_____

_____

_____

DATE RETURNED TO INMATE: _____ IGRC MEMBERS: _____

_____

_____

_____

RETURN WITHIN 24 HOURS AND CHECK ONE:

I disagree with the IGRC recommendation and want to appeal to the Office of the Superintendent.

☐ YES ☐ NO

SIGNED: _____ _____
GRIEVANT DATE

_____ _____
GRIEVANCE CLERK'S RECEIPT DATE

HEARING NOTICE

DATE _____

NAME OF GRIEVANT _____

INSTITUTION IDENTIFICATION # _____ HOUSING UNIT _____

TITLE OF GRIEVANCE _____

The Grievance Committee is conducting a hearing on the above matter. It requests that you attend the hearing which will be conducted in an attempt to resolve the matter.

NAME OF PERSON TO APPEAR _____

Date of Hearing _____

Time of Hearing _____

Place of Hearing _____

Please indicate if you will be present: _____ YES _____ No

If no, please check the appropriate box:

1) I do not wish to appear. ☐

2) Hearing scheduled on day off. ☐

FOR INMATE USE TO OBTAIN PASS TO HEARING

This certifies that the above inamte has been requested to attend the above haring at said time and place.

_____

(Jr. Inmate Grievance Coordinator Signature)

EXEMPLARY PROJECTS REVIEW BOARD

Members of the Exemplary Projects Review Board in September 1975, when the Ward Grievance Procedure of the California Youth Authority was selected, were the following:

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EXEMPLARY PROJECT: The Ward Grievance Procedure of the California Youth Authority

To help LEAA better evaluate the usefulness of this document, the reader is requested to answer and return the following questions.

1. What is your general reaction to this document?
   - ☐ Excellent
   - ☐ Above Average
   - ☐ Average
   - ☐ Poor
   - ☐ Useless

2. To what extent do you see the document as being useful in terms of: (check one box on each line)

	Highly Useful	Of Some Use	Not Useful
Modifying existing projects	☐	☐	☐
Training personnel	☐	☐	☐
Administering ongoing projects	☐	☐	☐
Providing new or important information	☐	☐	☐
Developing or implementing new projects	☐	☐	☐

3. To what specific use, if any, have you put or do you plan to put this particular document?
   - ☐ Modifying existing projects
   - ☐ Training personnel
   - ☐ Administering ongoing projects
   - ☐ Developing or implementing new projects
   - ☐ Other: _____

4. Do you feel that further training or technical assistance is needed and desired on this topic? If so, please specify needs.

5. In what ways, if any, could the document be improved: (please specify, e.g. structure/organization; content/coverage; objectivity; writing style; other)

6. How did this document come to your attention? (check one or more)
   - ☐ LEAA mailing of package
   - ☐ Contact with LEAA staff
   - ☐ Your organization's library
   - ☐ Other (please specify) _____
   - ☐ LEAA Newsletter
   - ☐ National Criminal Justice Reference Service

7. Have you contacted or do you plan to contact the California Project site for further information?

8. Check ONE item below which best describes your affiliation with law enforcement or criminal justice. If the item checked has an asterisk (*), please also check the related level, i.e.,

☐ Federal ☐ State ☐ County ☐ Local

☐ Headquarters, LEAA	☐ Police *
☐ LEAA Regional Office	☐ Court *
☐ State Planning Agency	☐ Correctional Agency *
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